PUBLIC COMPLAINTS COMMISSIONER

SECOND
ANNUAL REPORT
OF THE
OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER
AND THE
POLICE COMPLAINTS BOARD

1983

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December 21, 1982 to December 20, 1983

June, 1984.

The Honourable R. Roy McMurtry, Q.C.,
Attorney General for Ontario,
Ministry of the Attorney General,
18 King Street East,
TORONTO, Ontario.

Dear Mr. Attorney:

Pursuant to Section 3(3) of the *Metropolitan Police Force Complaints Project Act, 1981*, I am pleased to enclose herein the Second Annual Report of the Office of the Public Complaints Commissioner and the Police Complaints Board.

Yours very truly,

SBL/kc

SIDNEY B. LINDEN, Q.C.,
Public Complaints Commissioner.

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Sidney B. Linden, Q.C.

June, 1984.

MESSAGE FROM THE COMMISSIONER

The Metropolitan Police Force Complaints Project Act, 1981, created a three-year pilot project that was designed to improve police/community relations by ensuring that police complaints are dealt with openly and fairly. The public interest in the complaint process was recognized by introducing extensive civilian participation and decision-making, thus making the police force more accountable to the community it serves, while continuing to place day-to-day responsibility for discipline on the police force itself.

Our first year was primarily devoted to setting up the office, establishing routines and procedures, and beginning our monitoring of the police complaint process. Relatively few reviews were done in that year, as few complaints had reached the review stage. In our second year, the system began to mature and function as it was designed. Further, the structures that are now in place provide the office with a solid foundation upon which to build.

The importance of an effective complaint system to both the public and the police force cannot be overemphasized. It is an avenue for constructive criticism that can be seen to produce change where change is necessary. Such a system is essential in

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order to maintain public trust in and respect for the police. It engenders community support and facilitates police/citizen co-operation, an element vital to the force's ability to achieve its goals. It is also a very valuable management tool. It can assist police officials to identify problem areas in which increased training or direction is necessary. Furthermore, it can assist in identifying and correcting unclear or inappropriate police procedures.

To maintain an effective complaint system, there are three major areas that must receive on-going attention. First, the system must be credible. It must not only be, but must be seen to be fair, equitable and trustworthy to both complainants and police officers. It must provide members of the public with an effective avenue for redress of legitimate grievances against law enforcement officers and by the same token, ensure that the rights of an accused officer are protected. Secondly, the system must be visible. There must be efforts directed to making people aware of the existence of the system and of their rights under it. Finally, the system must be accessible. It must be kept as uncomplicated and understandable to the participants as possible.

It must be remembered that there will never be a situation in which people have no complaints about the police. Complaints from the public are a "fact of life" in police work. This is partly due to the nature of police work which is often concerned with control of people's behaviour in highly stressful situations. It is also due to the fact that some complainants are not, strictly speaking, concerned with misconduct, but rather with police procedures that they feel are no longer acceptable in the community. A police force is a public institution and, like other public institutions, it will always be under pressure to change in response to societal change. Consequently, the goals of a complaint system cannot include the elimination of complaints, although some preventative effect on certain types of problems can be anticipated.

In most cases of questionable conduct (as opposed to misconduct) discipline is not the answer. Rather, what is needed is suitable educative measures. Training or retraining in the law relevant to a particular area of police work, in interpersonal communication, in crowd control or in dealing with the stress of the job may prevent the problem from arising in the future.

In more serious and deliberate types of misconduct, effective disciplinary action must be taken, with or without the educative measure described above. It is to be assumed that discipline will have a deterrent effect and thus be preventative of this type of misconduct.

This second annual report demonstrates how an agency such as ours can provide a useful and important role in contributing to good police/community relations. The sense of optimism and encouragement that we felt at the end of our first year has been maintained throughout our second year. Clearly, there are still many problems remaining, but that was one of the reasons the office was established as a pilot project in the first instance. We are continuing to improve and refine the system each day.

As in our first year, I would like to acknowledge the continuing support and co-operation of the Chief of Police, the Board of Commissioners of Police, the Police Association and many agencies, groups and individuals in the community far too numerous to mention.

Again, as in our first year, most of the statistics in this report have been presented without critical analysis. We are hopeful that in our triennial report we will have sufficient data to enable us to draw meaningful conclusions.

I wish to thank Dr. Ann Cavoukian of the Ministry of the Attorney General who continues to be responsible for directing the research for our office. I also wish to express my gratitude to each and every member of my staff. The success we have enjoyed has been a direct result of their dedication, ability and enthusiasm. All of us are looking forward to the challenges of the third year.

SIDNEY B. LINDEN, Q.C.,
Public Complaints Commissioner.

PART I - THE COMPLAINT PROCESS

In the first annual report of the Office of the Public Complaints Commissioner, a brief general outline of the new complaints system was given. In the past year, however, many people, both civilians and police officers, have expressed an interest in more complete information about exactly what goes on in the complaint process. To satisfy this interest, a more detailed description of the complaint process is set out here. Some of the issues that have arisen in making the system work and the approaches taken to these issues, will also be outlined.

A. FILING A COMPLAINT

A complaint against a Metropolitan Toronto Police Force officer may be filed at any police station, at the Public Complaints Investigation Bureau of the police force (hereafter referred to as the Bureau) or at the Office of the Public Complaints Commissioner (hereafter referred to as the P.C.C.).

Statistics based on closed cases during the first year of the project, (December 21, 1981 - December 20, 1982), indicated that 20% of complainants came to the P.C.C. office, 47.1% to police stations and 26.8% to the Public Complaints Bureau. In the second year (December 21, 1982 - December 20, 1983), 24.8% of complaints were filed at the P.C.C., 42.8% at police stations and 24.4% at the Bureau. The figures for the first quarter of 1984 show a considerable increase in the number of complaints filed at the P.C.C., with 40.7% of complaints being filed at the office.

When the complainant files a complaint there is a specific investigative process, detailed by regulation, that must be followed by the investigator. This process includes the taking of photographs of any injuries or property damage and the preserving of any physical evidence (such as torn clothing, for example). The complainant is also interviewed as to the circumstances of the complaint, as are all other witnesses.

1. Accessibility

To be effective, a complaint system must be accessible, responsive and as uncomplicated as possible. Clearly, a complaint system characterized by rigid office hours and excessive "red tape" would be unusable by many people. With this in mind, efforts have been made to ensure that the P.C.C. office is approachable. The location of the office at Avenue Road and Bloor Street is close to major public transit. Extended office hours can be arranged, as needed. For those who have difficulty with the English language, translation services are available.

A 24-hour answering service is in use, and the Director of Investigations is notified of any urgent calls that come in on evenings and weekends. Commission investigators regularly travel to any complainants or police officers who find it difficult to come to the office.

When experience shows that an aspect of a procedure is causing difficulty, it is modified, or, if the procedure is necessary, efforts are made to explain it to the person's satisfaction.

2. Public Awareness

A primary goal in maintaining an effective complaint system is to educate people about the system. Both police officers and the general public should have a clear idea of how the system works. It would be unrealistic for anyone administering a new law to expect people to immediately become aware of their new rights and how to exercise them. It is also fair to assume that most people feel slightly intimidated about dealing with any official agency. If people are to be expected to use a new system, it is clear that outreach and educational efforts are necessary.

Police officers, of course, are more knowledgeable about the new legislation, in a general sense, than most members of the public. The P.C.C. has conducted educational sessions at police stations and police colleges to explain the system. These efforts are continuing. The Commissioner has met with the Metropolitan Toronto Board of Commissioners of Police and the Ontario Police Commission to discuss the system.

In regard to the general public, efforts in outreach and education began early in the project and have increased in variety and intensity in the second and third year. On three occasions, the P.C.C. has produced an advertisement which was published in over 100 newspapers and in over 30 different languages. A poster, giving a brief explanation of the complaint system and a pamphlet describing the system, was made available to the general public through community information centres, legal clinics, courts, police stations, constituency offices of Metropolitan Toronto MP's and MPP's, aldermen/ controllers' offices, libraries, government bookstores, liquor stores, supermarkets, driver examination centres, licence issuing offices and other miscellaneous outlets. Copies were also distributed, at the outset of the project, through the Criminal Lawyers Association to all of its members, and were made available to every police officer in Metropolitan Toronto. Members of the P.C.C. staff have given interviews for television, radio and newspapers. As a result, articles about the work of the P.C.C. appeared in newspapers across Canada.

There was a great deal of media interest when the first public hearings by the Police Complaints Board were announced in the fall of 1982. At that time, the Commissioner conducted an information seminar for members of the media to assist in their understanding of the Act. Also, during the summer and early part of the fall of 1982, each individual or group that had appeared before or submitted a brief to the Justice Committee was invited to visit the P.C.C. office. Representatives from many of the groups attended, and the Commissioner was able to explain how the system works and discuss their various concerns.

The first Annual Report of the office of Public Complaints Commissioner has been in great demand by community groups and agencies, and by police complaints systems existing or planned in other jurisdictions. Furthermore, the office has had a number of requests for information from high school law teachers. P.C.C. staff have spoken to over 50 groups of high school students. The P.C.C. has also produced an educational tape for the Dial-A-Law program of the Law Society of Upper Canada. Those requesting information from the program are provided with information from the tape.

In mid-1983, the P.C.C. instituted a series of meetings with ethnic associations, legal clinics and service agencies to explain the complaint system to community workers who might be referring complaints. In addition, the Commissioner has met with each of the mayors and city councils of Metropolitan Toronto to discuss the system. The Commissioner also sits on the newly established Council on Race Relations and Policing. This Council, which includes representatives from the police and the community, meets regularly to discuss ways of improving relations between the police and visible minorities in Metropolitan Toronto.

3. The Public Mischief Charge

One frequently repeated concern at the beginning of the project was that anyone whose complaint was unsubstantiated might be charged with public mischief. This offence, found in Section 128 of the Criminal Code of Canada, could in fact be charged against anyone who makes a false statement indicating that someone has committed an offence. The rationale of the offence is the deterrence of people who deliberately cause the police to waste time and public funds in investigating a false allegation.

The Criminal Code of Canada is, of course, federal legislation and therefore it is not possible to alter its application by means of provincial legislation, such as the Metropolitan Police Force Complaints Project Act, 1981. However, the Commissioner has maintained the view that it is inappropriate to lay a charge of public mischief arising out of a public complaint of misconduct unless clear guidelines are established.

Police officers have expressed concern that the filing of frivolous or vexatious complaints causes unnecessary embarrassment and inconvenience. While the Commissioner understands this concern, he takes the view that it is important that the filing of legitimate complaints should not be deterred by fear of a criminal charge. If people who have complaints come forward and are able to see the complaint properly dealt with, public confidence in the police force will be maintained.

It should be pointed out that the fact that a complaint is unsubstantiated is not in itself justification for the laying of a public mischief charge. Many allegations cannot be substantiated simply due to lack of available evidence. An essential element which must be proved before a public mischief charge can succeed is the element of deliberate falsehood by the complainant with the intent to cause a police officer to conduct an unnecessary investigation. The circumstances under which a public mischief charge can be laid are limited to this type of situation.

Of 1,917 closed complaint cases monitored by the Public Complaints Commissioner from September 14, 1981 to December 20, 1983, 3 public mischief charges (representing 0.16% of all complaints) have been laid.

B. THE INVESTIGATION

Except in unusual cases, which are discussed below, the initial investigation into a complaint is done by the Public Complaints Investigation Bureau, a unit within the police force that is involved exclusively with complaints by members of the public.

Investigation by the Bureau must be done according to rules set out in a regulation. The regulation requires that:

> "4. An investigation under section 9 of the Act shall be pursued quickly and diligently and the investigator shall endeavour to obtain all information that may have a bearing on the complaint.
>
> 5. All information and evidence obtained in the investigation shall be recorded and preserved.
>
> 6. The investigators shall endeavour to interview the person making the complaint and the police officer concerned and obtain written statements from them.

7. The investigator shall endeavour to interview the witnesses named by the person making the complaint and the police officer concerned and witnesses located as a result of the investigation and to obtain written statements from such witnesses.

8. The investigator shall endeavour to obtain photographs of all personal injuries or damage to property alleged and any other information and evidence that is relevant to the investigation and could only be preserved by way of photographs.

9. Where appropriate, the investigator shall attend at the scene of the alleged misconduct and obtain any relevant evidence.

10. The investigator shall endeavour to obtain all hospital records and medical reports related to the complaint.

11. The investigator shall make notes during or as soon as possible after completion of each investigative step and the notes shall be preserved.

12. Any information, notes or evidence, except physical evidence, that is required to be preserved under Sections 5 and 11 shall be retained for a period of two years after the complaint is finally disposed of."

The new system also requires the Bureau investigator to send monthly summaries (referred to as "interim reports") of the investigation to the P.C.C., to the complainant and to the police officer concerned. Upon completion of the investigation, the complainant, the officer, and the P.C.C. receive a final report. These reports outline each step taken in the investigation, the witnesses interviewed, statements given, and a description and analysis of documentary and physical evidence obtained.

The P.C.C.'s civilian investigators are able to monitor the progress of the Bureau's investigation through reading the complaint form and interim and final reports. If it appears that there has been an oversight, further investigation can be requested. Often the P.C.C.'s investigators are able to resolve the matter by communicating with the Bureau by telephone. This informal method of dealing with issues has proved very effective. However, sometimes requests for additional information are made in writing. In all cases, the P.C.C.'s requests for information have been complied with by the Bureau.

There is provision in the Act for P.C.C. investigators to investigate a complaint from the outset in certain circumstances. On occasion, the Chief of Police has asked the P.C.C. to undertake the initial investigation. This occurred, for example, in the Morrish Road investigation described later in this report. From time to time, the complainant has been unwilling to speak to the officers of the Bureau. In these cases, the P.C.C. assumed the investigation of the matter when the Bureau completed its investigation to the extent that it was able. This occurred, for example, in the Jane/Finch and Regent Park complaints, discussed later in this report.

1. Who Should Investigate Complaints?

Some critics of the Metropolitan Police Force Complaints Project Act, 1981, have argued that there is an inherent conflict of interest when police officers investigate complaints against fellow police officers. Some people mistrust the ability of a police officer to be objective in these circumstances. At the other extreme, some members of the police community may not trust an investigation done entirely by civilian investigators.

After considerable research into other police complaint systems, a compromise was proposed for Metropolitan Toronto in which the independent civilian agency (the P.C.C.) would do the initial investigation in special cases defined by the Act. It was considered that this power, together with the power to monitor the police investigation and to review and re-investigate the entire matter on the request of the complainant, would afford a workable balance.

The P.C.C. has studied public complaint systems in other jurisdictions and found that in every case where the police force was excluded from the process, the system failed. When such systems were instituted the police force's reaction manifested itself in battles over procedural issues, such as the right to subpoena officers, that brought the systems to a standstill. In the final analysis, these systems proved to be counter-productive and were terminated. The New York and Philadelphia systems as they existed in the 1960s are examples of this.

In order to effectively manage the police force it is essential that the police themselves be involved, to some extent, in the investigation of complaints. By having the police make the initial decision as to disposition in all cases, they can "clean their own house" and be seen to do so, thus fostering positive police/community relations. At the same time, the system is seen to be credible by police officers.

The recent history of the issue in Metropolitan Toronto indicates that a complete exclusion of civilians from the process is not a viable option and that civilians have proved to be effective in invesfigations. A certain amount of co-operation from the police force, however, is essential to the functioning of a police complaints system. This support would be most difficult to maintain if the police were excluded entirely.

The P.C.C. has as much or more civilian participation than any other complaint system the P.C.C. has studied. At the same time, this system affords the police the first opportunity to respond appropriately to citizen complaints, thus involving them in the process and preventing the polarization, confrontation and failure that was experienced in some jurisdictions.

C. RESOLUTION OF COMPLAINTS BY THE POLICE

There are two ways in which a complaint is resolved by the police force - informal resolution, and resolution through a formal decision by the Chief of Police.

Often a complaint can be resolved to the complainant's satisfaction through an informal settlement. This can happen, for example, where the complaint arose out of a misunderstanding that can be explained, or where a police officer is willing to admit to misconduct such as discourtesy and to apologize to the complainant. From December 21, 1982 to December 20, 1983, 28.3% of complaints were resolved informally by the Bureau.

The informal resolution is an appropriate way to resolve a complaint, as long as the complaint does not involve serious misconduct, and as long as the complainant has been adequately informed of his or her right to have the matter investigated further and formally resolved, and is truly content not to do so.

As indicated above, the other way in which complaints are resolved by the police force is through a decision by the Chief of Police. The Act permits the Chief of police to delegate this reponsibility. At present, this duty has been assigned to a Deputy Chief of Police.

On receipt of the final report of the investigation, the Chief's designate must make a decision as to what, if any, action will be taken by the force in response to the complaint. Action by the police force can be summary discipline, Police Act charges, criminal charges or a Police Complaints Board hearing. The Chief's designate must state his or her decision in writing, and give reasons for it. A copy of the decision is sent to the complainant, the officer and the P.C.C.

D. REVIEW BY THE P.C.C.

If the complainant is not satisfied with the decision of the Chief of Police's designate, he or she may request a review by the P.C.C. The complainant is informed of this right in the letter from the Chief's designate, and in the form given to every complainant when the complaint is filed.

As the P.C.C. becomes better known in the community, requests for review are increasing. In 1982, (December 21, 1981 to December 20, 1982), there were 45 requests. In 1983, this number increased to 74. While a request for review indicates dissatisfaction with the decision of the Chief of Police, this increase can also be interpreted positively as indicating an increased awareness of the new system and a willingness to use it.

A review involves an analysis of the initial investigation, with further investigation where necessary. In an appropriate case the P.C.C. may attempt to settle a complaint informally. In cases where settlement is inappropriate, the Public Complaints Commissioner must decide whether it would be in the public interest to hold a Police Complaints Board hearing in the matter. If it is not a case for a public hearing, a review report is written.

Situations in which review reports are written cannot be described exhaustively, due to the many considerations which arise in determining "the public interest." Each case is decided on its own facts. However, some examples can be provided. Review reports have been written in the following situations:

(a) Where the officer's conduct was based on an understandable misinterpretation of the law;
(b) Where the officer believed that he or she was acting according to police policy or procedure, but in fact did not do so because of a misunderstanding of police policy or procedure;
(c) Where the officer was acting reasonably and legally;
(d) Where there is insufficient evidence to go to a Board hearing.

Examples of the situations listed above, based on actual cases, are the following:

(a) Mr. A, a photographer at a public demonstration, was inside a barricaded area that several police officers were trying to keep clear. He was arrested, taken to a police station and told that he was being charged with breach of the peace. He was detained for several hours and subsequently released, no charges having been laid. Mr. A complained that the police had tried to broaden their powers in clearing an area by resort to a "breach of the peace" charge. He complained. When the Chief of Police declined to take action, Mr. A asked for a review.

On review, it was clear that the officers had followed Force policy and had acted according to their honest belief that in the circumstances, they were justified in arresting Mr. A for "breach of the peace". The Commissioner therefore felt that it was not in the public interest to order a hearing. However, he produced a review report that canvassed the fairly unclear legal area of "breach of the peace." The Commissioner came to the conclusion on a review of the law that breach of the peace, itself, is not a criminal offence, although numerous criminal offences can be included within the meaning of the term. Therefore, it appears that the law may not in fact give the police the power to arrest or detain a person for "breach of the peace".

The review report concluded with a recommendation that the Ministry of the Attorney General and the Police Force should review the state of the law concerning "breach of the peace" with specific emphasis upon powers of arrest. Until such a study was completed and some conclusion reached, the Commissioner recommended that the Metropolitan Toronto Police Force should not arrest or detain anyone for breach of the peace in the absence of evidence of a specific offence for which the person could be arrested.

The recommended review of the law was done, and the police guidelines now include instructions advising officers not to arrest for breach of the peace unless violence, or apprehension of violence, is involved.

(b) Mr. B was a passenger in a car when the driver of the car was stopped on suspicion of impaired driving. The arresting officer wished to take the driver of the car to the station for a breathalyzer test in the police vehicle. Mr. B entered the police vehicle with the intention of accompanying the driver of the car to the station. The police officers asked him to leave the car. One of the officers informed Mr. B that the police insurance policy had no provision for coverage in case of injuries to persons not under arrest, who are transported in police vehicles.

Mr. B declined to leave the car because he wanted to give moral support to the driver. A police officer several times requested Mr. B to leave the car, and after subsequent refusals, pulled Mr. B out of the car. Mr. B considered this action an assault, filed a complaint under the Act, and when the Chief's designate declined to take action against the officers, he requested a review of the matter.

On reviewing the evidence, the Commissioner decided that the police officer had had a right in law to remove the complainant from the police car. However, investigation revealed that the police insurance policy does cover passengers other than arrested persons. The Commissioner affixed a recommendation to the review report, advising that the terms of the insurance policy be reviewed with the officers.

(c) Mrs. C's son was involved in a minor car accident that resulted in damage to another vehicle. When an officer arrived on the scene to investigate the situation, the officer directed the son to sit in the back of the police cruiser to answer some questions relating to the incident. Mrs. C wished to sit with her son, but was told to stay out of the cruiser, as the officer planned to talk to her separately. Mrs. C considered this action unreasonable and lodged a complaint. When the Chief's designate indicated that no action was warranted, Mrs. C asked for a review.

On review, the Commissioner determined that the police officer had been acting both legally and reasonably in separating witnesses to an event being investigated, so that she could take independent accounts of the event from each witness. He expressed his understanding that family members might wish to morally support another member of the family who was being questioned by police. However, he explained that there were sound reasons for the separation of witnesses, and concluded that no action was warranted.

(d) Ms. D was arrested on a shoplifting charge. She alleged that at the station the investigating officer shoved her roughly into a chair, and insulted her. In response to her complaint, the Chief's designate decided that no action was warranted. Ms. D requested a review by the P.C.C.

In the review report, the Commissioner outlined all the investigative steps that had been taken, all the evidence that had been considered, and what the various people involved had to say about the incident. In summing up, it was evident that Ms. D had had no physical injuries, and that both the investigating officer and another officer witnessing the investigation denied using or hearing any insulting language. The review report concluded by explaining the nature of evidence that would have to be present before the Police Complaints Board could make a finding. It was explained that there is no presumption of credibility on the part of either complainant or respondent officer.

> Where evidence reduces to the officer's word against the complainant's, and thorough investigation fails to disclose any other evidence, it is unlikely that the Commissioner would consider it in the public interest to order a Police Complaints Board hearing. However, lack of confirming evidence would not in all cases preclude the calling of a Board hearing; each case must be decided on its own merits.

Review reports contain an exhaustive explanation of the nature of the allegation, the witnesses contacted, the evidence considered and any other investigative steps that were taken. In all cases where a witness' version of events contradicts that of the complainant, the complainant is informed about the contradiction and asked to comment. If the Commissioner decides that no action is warranted, the decision is explained. If a change in police policy or procedure is recommended, the recommendation is set out in detail.

The recommendations made in review reports can have a preventative function; for example, when a complainant's difficulty was with police policy rather than police misconduct, or when the officer displayed only minor misconduct or simply questionable conduct. When the problem might be prevented in future by a change in or clarification of policy, this can be recommended in a review report. If there is very minor misconduct or simply questionable conduct, a report may recommend suitable educative measures. Training or retraining in the law relevant to a particular area of police work, in interpersonal communication, in crowd control or in dealing with the stress of the job, may prevent the problem from arising in the future.

1. The Complainant Who Does Not Request a Review

The Act allows the Public Complaints Commissioner to review a complaint when the complainant involved requests such a review. This can be problematical if the complainant declines to request a review because he or she did not understand the rights given by the Act, or simply became discouraged by the process. The P.C.C. has tried to prevent this problem from arising through public education and outreach efforts described elsewhere in this Report.

2. The Complainant Who Does Not Want A Public Hearing

On occasion, there are cases in which a review is done and the Commissioner finds that a public hearing is warranted, but the complainant does not wish to participate in a public hearing. An example of this type of situation, based on an actual case, is the following:

> Mr. E was the father of a 12 year old boy who had been arrested by the police on a charge of careless driving, for driving a motorized go-cart on the sidewalk. After investigation by the Bureau, the Chief's designate concluded that the arresting officers had acted improperly in not leaving the house when requested to so do by the homeowner and in removing the boy from the home without shoes or a jacket. The complaint was sustained, and the officers were counselled by the Chief's designate.
>
> Mr. E was not satisfied with the penalty imposed by the Chief's designate and requested a review by the P.C.C. On review, the Commissioner determined that the case warranted a hearing in the public interest. However, when Mr. E was informed that there would be a public hearing, and his son would have to testify, he stated that he did not wish a hearing to be held.

In this case, it was open to the Commissioner to subpoena both father and son, requiring them to testify at a public hearing. However, after considering all the circumstances of the case, the Commissioner decided that it was not in the public interest to do so.

E. POLICE COMPLAINTS BOARD HEARINGS

After reviewing a case on the request of a complainant, the Commissioner may call a public hearing if he considers it to be in the public interest to do so. As of December 21, 1983, there had been six completed Board hearings; one other was pending. Five hearings were ordered by the Commissioner on the basis of a complaint which came to the P.C.C. office for a review. One was an appeal by an officer of his conviction in an internal police hearing conducted as a result of charges under the Police Act.

In one of the six completed hearings, the Board found the complaint substantiated. The disciplinary penalty imposed by the Board was a two week suspension without pay. In another of the six, the case of the officer who appealed his conviction under the Police Act, the penalty imposed, a demotion in rank, was confirmed. The other four complaints were dismissed after a hearing.

Hearings by the Police Complaints Board are open to the public and are similar to other administrative or quasi-judicial proceedings. The Statutory Powers Procedure Act and the rules of natural justice apply. In his capacity as Chairman of the Police Complaints Board, the Commissioner appoints a panel to hear the case, and appoints a counsel for the Board. It is the function of counsel for the Board to ensure that all relevant evidence is heard by the Board and that any party who is not represented has his or her evidence properly put before the Board.

By some standards, the number of Board hearings ordered may seem small, relative to the number of complaints received. However, a comparison based on the number of complaints received is somewhat deceptive. It is important to note that, ordinarily, a Board hearing can only be called pursuant to the complainant's request for review of the case by the P.C.C. Between December 21, 1981 and December 20, 1983, 119 complainants requested a review.

Of these 119 cases, 86 reviews were completed by December 20, 1983. Of these 86, 8 cases were informally resolved by the Commissioner. A further 10 cases were withdrawn by the complainant. In 63 cases, the Commissioner decided that it was not in the public interest to hold a hearing and wrote a review report, with or without recommendations. In the remaining 5 of the 86 reviews, the Commissioner ordered a Board hearing, and the hearing was completed. In addition, five hearings were ordered but not completed during this time. Between December 20, 1983 and June 1, 1984 an additional four hearings were ordered by the Commissioner.

Altogether, between December 21, 1981 and June 1, 1984, a total of seventeen hearings have been ordered. Fourteen were ordered by the Commissioner, and two by the Chief's designate. One was an officer's appeal of his conviction under the *Police Act*.

1. *Penalties*

There has been some comment in the media in regard to the penalty handed down by the Board in the first Board hearing where a police officer was found guilty of misconduct. One Globe and Mail editorial referred to the penalty assessed in this case as "uncommonly light." The Toronto Star referred to the same case as a "tap on the officer's wrist." In the case referred to, an officer was found to have assaulted a hand-cuffed prisoner in a police station. After hearing lengthy submissions as to penalty, the Board imposed a suspension without pay for two weeks. The penalty is being appealed by the complainant to the Supreme Court of Ontario. The subject officer is appealing the Board's finding of misconduct.

2. Disciplinary Penalties vs. Criminal Charges and Civil Suits

The justice system offers several different avenues for those who feel that they have been improperly treated by the police. Each avenue offers different advantages.

The *Metropolitan Police Force Complaints Project Act, 1981* provides the only system whereby a citizen who complains of police misconduct may be afforded a public hearing before an adjudicator who can impose discipline on a police officer if misconduct is found. However, it is important to note that the *Metropolitan Police Force Complaints Project Act*, 1981 does not provide the only remedy. It remains possible for a citizen who alleges misconduct to sue the police officer and the Police Force, or to lay criminal charges. Either or both of these routes can be followed before, after, or during the processing of a complaint through the complaints system. Some complainants do use more than one of the avenues provided by the justice system, since the Police Complaints Board has no power to impose criminal penalties such as incarceration, or financial awards such as money for damages suffered.

PART II - OTHER SIGNIFICANT ACTIVITIES

A. PRE-PROCLAMATION CASES

The First Annual Report of the Office of the Public Complaints Commissioner referred to three cases in which complaints were reviewed before the proclamation of the Act. Had the Act been in force, the Commissioner might have ordered a Police Complaints Board hearing. Since the P.C.C. had no jurisdiction to order a hearing, these cases were referred to the Metropolitan Toronto Board of Commissioners of Police. The Public Complaints Commissioner attended before the Board of Commissioners and requested that they conduct hearings in these three cases. The Board of Commissioners acceded to this request and hearings were held. The findings in these hearings were made during the 1983 reporting year.

In one case, the Board of Commissioners recommended that criminal charges be laid. In the second case, an outstanding civil suit was settled with a monetary award and a written apology to the complainant. In the third, internal disciplinary action was taken.

B. SPECIAL ACTIVITIES

Since its inception, the Office of the Public Complaints Commissioner has been called upon in several cases to intervene in situations that involve not only complaints by individuals against members of the Police Force, but more widespread and generalized malfunctions in police/community relations. The situation may involve public reaction to a particular incident, or it may be part of complicated and long-standing problems, including, but not limited to, police/community relations.

In responding to requests for intervention in these larger and more complicated police/community problems, the P.C.C. endeavours to serve a preventative function. Depending on the situation, the P.C.C. may be called upon to investigate a series of individual complaints, to recommend changes in specific police procedures, to mediate between police and community, or to refer a community to other appropriate agencies in response to specific problems that relate to but are not primarily involved with police complaint issues.

Four large-scale problem situations have been dealt with by the P.C.C. between its inception and December 21, 1983. They are briefly summarized as follows:

1. Hold-Up Squad Investigation

On October 22, 1981, at a meeting of the Metropolitan Board of Commissioners of Police, letters from seven Toronto criminal lawyers were tabled. Each of the letters contained allegations that one or more persons had been assaulted by officers from the Hold-Up Squad of the Metropolitan Toronto Police Force. The lawyers called for a public inquiry into these very serious allegations.

There was considerable media attention to the allegations and in November, 1981, the President of the Ontario Criminal Lawyers' Association wrote to the Attorney General of Ontario to demand a public inquiry. Further support for a public inquiry came as a result of a petition to Amnesty International sent by 73 Toronto criminal lawyers in November, 1981. Amnesty International wrote to the Attorney General in January 1982 urging that a public inquiry be constituted to examine the complaints. The Attorney General responded to these requests by referring the matter to the Public Complaints Commissioner.

The Commissioner met with representatives of all the parties concerned and obtained their agreement to his proposals regarding procedures for investigation. He then reviewed the police force's internal investigation, which had commenced in October, 1981. Since the police force's special investigative team had not received much cooperation from the complainants and their counsel, the P.C.C. undertook further investigation into all the allegations. As agreed with the representatives of all the parties involved, the Commissioner proposed to adhere as closely as possible to the procedures outlined in the newly proclaimed Metropolitan Police Force Complaints Project Act, 1981, although the powers under the Act were not available, since the complaints had arisen before the Act had become law.

Investigation by the P.C.C. commenced in March, 1982. Extra office space and resources were obtained through a special budget from the Ministry of the Attorney General. Transcripts of all relevant trials in the matter were obtained and summaries were made of the testimony of each witness. Other documents, including reports of arrest, use of force reports, police occurrence reports, police officers' notebooks, prisoner records, police vehicle logs, and formal typed statements, were examined. Police and civilian witnesses who were interviewed included Hold-Up Squad officers, all other police officers who had contact with the complainants or were in the vicinity, the complainants, their friends and relatives, their counsel, and doctors who conducted medical examinations of the complainants. Since the complaints did not come under the jurisdiction of the Act, the Commissioner did not have the power to subpoena reluctant witnesses. However, when a witness was reluctant to be interviewed, information was obtained from other sources.

A separate file was opened for each complainant, subject officer and witness. Altogether, a total of 153 files were opened. The information gathered during the investigation was collated and a system of cross-referencing was devised. Charts were prepared of investigative aids to pinpoint specific areas of concern and to assess uniformity or variation in the court testimonies of each witness.

The P.C.C. investigation was substantially completed in November, 1982, but the Commissioner decided to await the outcome of the trial of several of the complainants, at which some of the brutality allegations would be raised in court. The trial was unexpectedly lengthy, and did not conclude until December, 1983. However, considerable relevant evidence given under oath and subject to cross-examination was obtained, through the examination of parts of the trial transcript.

In April, 1984, the P.C.C. released a 150 page report of the Hold-Up Squad investigation to the public. The report described the investigation and discussed the issues raised by the information that was obtained. The individual complaints were briefly summarized in the report, which did not contain names of anyone involved because of concern about their civil rights. However, a 235 page summary of the information uncovered in each individual investigation was compiled and sent to the Ministry of the Attorney General for an opinion as to the possibility of criminal charges in certain doubtful cases. The conclusions of senior Crown Counsel was that there was insufficient reliable evidence to support the laying of criminal charges.

The issue of criminal charges did not end the matter. The P.C.C.'s report identified certain areas of police practice and procedure which were unsatisfactory. The Commissioner stressed the need for specific reforms in police practice and procedures that would act both as preventative measures against the occurrence of misconduct by police officers, and as a safeguard against unfounded allegations of misconduct. In all, 19 recommendations were included in the report:

(i) POLICE OFFICERS SHOULD BE INSTRUCTED NOT TO COPY FROM FELLOW OFFICERS' NOTEBOOKS.

(ii) POLICE OFFICERS WHO HAVE HAD SOME CONTACT WITH A SUSPECT IN CUSTODY SHOULD BE REQUIRED TO FULLY ACCOUNT IN THEIR NOTEBOOKS FOR THE PERIOD OF TIME DURING WHICH THE SUSPECT IS BEING INVESTIGATED.

(iii) THE NOTEBOOKS OF ALL SPECIAL SQUAD OFFICERS SHOULD CONTAIN NUMBERED PAGES.

(iv) THE PROCEDURE WHEREBY POLICE OFFICERS' NOTEBOOKS ARE SIGNED DAILY BY A SUPERVISOR SHOULD BE EXTENDED TO INCLUDE SPECIAL SQUAD OFFICERS. FURTHERMORE, THE NOTEBOOKS OF ALL SPECIAL SQUAD DETECTIVES WHO INTERVIEW A SUSPECT AT A POLICE STATION SHOULD BE SIGNED BY THE POLICE OFFICER IN CHARGE OF THE STATION FOLLOWING THE CONCLUSION OF THE INTERVIEW.

(v) REPORTS WHICH ARE REQUIRED TO BE COMPLETED IN PROCESSING THE ARREST, CHARGE AND DETENTION OF A SUSPECT SHOULD INCLUDE THE TIMES AT WHICH THEY ARE COMPLETED AND THE DATE, AS WELL AS THE NAMES OF THE OFFICERS WHO HAVE ACTUALLY PREPARED THE REPORTS.

(vi) THE OFFICER IN CHARGE OF THE STATION SHOULD MAKE FREQUENT CHECKS AS TO THE CONDITION OF PRISONERS BEING HELD AT THE STATION. THE OFFICER SHOULD BE REQUIRED TO COMPLETE A FORM DESIGNED TO RECORD INFORMATION RELEVANT TO THE CONDITION OF THE PRISONER IN CUSTODY, AT INTERVALS WHILE THAT PRISONER IS IN CUSTODY. THE FORM SHOULD BE DESIGNED TO RECORD INJURIES, CONTACT WITH POLICE OFFICERS, MOVEMENTS WHILE IN CUSTODY AND COMPLAINTS OF MISTREATMENT.

(vii) ANY COMPLAINTS OR INJURIES SHOULD IMMEDIATELY BE INVESTIGATED BY THE OFFICER IN CHARGE OF THE STATION. A REPORT OF THIS INVESTIGATION SHOULD BE SUBMITTED BY THE OFFICER IN CHARGE TO HIS OR HER SUPERIOR OFFICER.

(viii) IF A COMPLAINT IS MADE, A COPY OF THIS FORM SHOULD BE FORWARDED TO THE PUBLIC COMPLAINTS INVESTIGAIION BUREAU ALONG WITH THE USUAL FORM FOR CITIZEN COMPLAINTS.

(ix) THE OFFICER IN CHARGE OF THE POLICE STATION SHOULD BE IMPRESSED WITH HIS OR HER RESPONSIBILITY AND ACCOUNTABILITY FOR ANYTHING OCCURRING AT THE STATION UNDER HIS OR HER SUPERVISION.

(x) MEMBERS OF ALL SPECIAL SQUADS SHOULD BE REMINDED THAT WHILE THEY ARE WORKING AT VARIOUS POLICE STATIONS, THE OFFICER IN CHARGE OF THE STATION HAS AUTHORITY OVER THEIR ACTIVITIES.

(xi) WHERE A STRIP-SEARCH IS CONSIDERED NECESSARY, IT SHOULD BE CONDUCTED BY OFFICERS OTHER THAN THE OFFICERS WHO ARE INTERROGATING THE COMPLAINANT.

(xii) THE RESPONSIBILITY FOR ENSURING THAT A STRIP-SEARCH HAS BEEN PROPERLY CONDUCTED SHOULD REST WITH THE OFFICER IN CHARGE OF THE STATION.

(xiii) THE OFFICER IN CHARGE OF THE STATION OR ANY OFFICER INSTRUCTED BY THE OFFICER IN CHARGE SHOULD NOTE ANY INJURY SEEN ON THE PRISONER'S BODY AT THE TIME OF THE STRIP-SEARCH. ANY INJURIES SEEN AT THIS TIME SHOULD BE INVESTIGATED IMMEDIATELY BY THE OFFICER IN CHARGE OF THE STATION.

(xiv) SUSPECTS SHOULD NOT BE DETAINED IN INTERVIEW ROOMS LONGER THAN NECESSARY. WHEN THE INVESTIGATION HAS BEEN COMPLETED THE SUSPECT SHOULD EITHER BE RELEASED OR TAKEN TO THE CELL AREA.

(xv) A RECORD SHOULD BE KEPT BY THE OFFICER IN CHARGE OF THE STATION AND ALL MOVEMENTS OF A PRISONER TO AND FROM THE CELLS. THIS RECORD SHOULD CONTAIN THE NAMES OF THE PRISONER AND THE ESCORTING OFFICERS, AS WELL AS THE TIMES OF THE MOVEMENTS.

(xvi) THE DESCRIPTION SHEET USED BY THE IDENTIFICATION BUREAU SHOULD BE AMENDED TO PROVIDE A SPACE WHEREIN RECENT INJURIES AND COMPLAINTS CAN BE NOTED.

(xvii) ANY COMPLAINT WHICH IS BROUGHT TO THE ATTENTION OF IDENTIFICATION BUREAU OFFICERS SHOULD IMMEDIATELY BE REPORTED TO THEIR SUPERIOR. THE MATTER SHOULD ALSO BE REPORTED TO THE OFFICER IN CHARGE OF THE DIVISION WHERE THE ALLEGED MISCONDUCT OCCURRED.

(xviii) DEFENCE LAWYERS SHOULD BE ADVISED THAT IF THEY NOTICE INJURIES ON THEIR CLIENTS, THEY SHOULD ENSURE THAT ANY EVIDENCE OF THESE INJURIES IS PROPERLY RECORDED AND PRESERVED.

(xix) A PILOT PROJECT SHOULD BE ESTABLISHED TO IMPLEMENT THE USE OF VIDEO-TAPE RECORDING IN METROPOLITAN TORONTO. THE PROJECT SHOULD BE OF AT LEAST TWO YEARS' DURATION AND BE SUBJECT TO EVALUATION AT THE END OF THAT TIME.

A task force has been established to consider the implementation of these recommendations.

2. Morrish Road Investigation

On May 29, 1982, police were called to a party at 535 Morrish Road in Scarborough. By estimates of witnesses at the scene, the party numbered some 300-500 people. Fifty-three officers came to the scene in response to complaints, arriving at various times during the evening. After attempting to contain the situation for some time, the officers ordered the party-goers to disperse and circled the property so that no more people could enter the house. At some point during the evening bottles were thrown at police officers and two officers ran toward the house. At this point, a number of officers converged upon the house and there was an altercation between the police and some party-goers. A CITY-TV photographer was present on the scene with a video camera and some of the incidents occurring were recorded on tape.

As a result of this incident, several people sued the police force for property damage and a number of people complained of assault by police. An investigation was commenced by the Police Complaints Investigation Bureau of the police force. The CITY-TV video tape, which was made available after being shown on television news, clearly showed that several officers were on the front lawn of the property as party-goers were leaving, and that some of these officers used their batons in an indiscriminate manner to strike some of the party-goers who were running from the area. The officers were not at that particular moment defending themselves from being assaulted, nor were they attempting to make an arrest. One officer was seen kicking out at several individuals, another officer was seen dragging someone who was on all fours, striking him with his baton and kicking him, and other officers were seen swinging their batons at individuals.

On August 12, Police Chief Jack Ackroyd asked the P.C.C. to take over the investigation in the matter. After some investigation of the allegations, it became evident that identification of the officers involved was going to be extremely difficult. In November, 1982, senior Crown counsel and senior police officers were asked to review the results of the investigation. They concluded that there was insufficient identification evidence to lay criminal charges or internal disciplinary charges.

Because of the high degree of public interest in the matter, the Commissioner decided to hold parts of the investigation in public. Preparation for the investigation included considerable effort by the P.C.C. investigators to get witnesses to the incident to come forward. Some witnesses eventually came forward and testified, during 13 days of public hearings.

The major problem at the hearing was identification of officers who may have been guilty of misconduct. Unfortunately, the CITY-TV video tape had been shot under extremely poor conditions, which limited its usefulness. This identification problem was further compounded by the fact that a number of the officers involved had removed their hats, which contained their identification numbers.

A number of methods of identification were tried; complainants reviewed pictures of the officers who were present at the scene, and watched the video tape at normal and slowed speed. In total the tape was shown some 150 times during the course of the public investigation. The police investigators had sent a copy of the video-tape to the Defence Research establishment in Valcartier, Quebec, to have experts there attempt to enhance it and get more detailed sharpness and clarity. However, due to poor quality, poor lighting and rain interference, the Defence Research establishment was unable to produce a better reproduction. Neither an enlarged version of the tape, nor still photographs made from the tape achieved sufficient quality to enable witnesses to identify particular officers.

A P.C.C. investigator went to Boston, Massachusetts to consult with the optical division of the ITEK Corporation, which assists in the analysis of space photography. Once again, an attempt was made to achieve more detailed sharpness and clarity, but this was not possible.

The police officers involved in the incident were not helpful in assisting the P.C.C. with identification. Some officers - those who appeared on the video tape in non-controversial activities - were identified by themselves or their colleagues, even though they were in the background or with their backs partially to the camera. However, no police witnesses identified officers in the act of striking any civilian complainant either from the video tape or from their recollection of events at the scene.

At the conclusion of the public investigation into the Morrish Road incident, no misconduct could be attributed to any particular officer, although it was clear that misconduct had occurred.

In summing up the investigation, the Commissioner made a public statement outlining the events under inquiry and giving a frank analysis of the problems with identification that had occurred. He also made nine recommendations for a police response to the incident. Some of these recommendations were aimed at ameliorating the situation. These included a public apology by the Chief of Police and the settlement of civil suits launched as a result of the incident. Other recommendations were aimed at prevention of similar incidents in the future and at implementing means of avoiding the identification problem by better police recording of crowd control situations. All the recommendations, which are listed below, were implemented by the police force:

(i) THAT THE CHIEF OF POLICE, ON BEHALF OF THE METROPOLITAN TORONTO POLICE FORCE, PUBLICLY APOLOGIZE FOR THE EXCESSES OF THOSE OFFICERS SEEN TO BE ASSAULTING CIVILIANS.

(ii) THAT THE CHIEF OF POLICE, ON BEHALF OF THE FORCE, APOLOGIZE, IN WRITING, TO EACH COMPLAINANT FOR THE INAPPROPRIATE MANNER IN WHICH SOME OFFICERS CONDUCTED THEMSELVES.

(iii) THAT THE CHIEF OF POLICE, ON BEHALF OF THE FORCE, OFFER TO COMPENSATE THOSE COMPLAINANTS WHO CLAIM THAT THEIR PROPERTY WAS DAMAGED BY OFFICERS AND AGREE TO A FORMULA OR MECHANISM TO FACILITATE THIS WITHOUT HAVING TO RESORT TO THE CIVIL COURTS.

(iv) THAT ALL OFFICERS BE INSTRUCTED TO COMPLY WITH EXISTING REGULATIONS WHICH REQUIRE THEM TO WEAR THEIR CAPS AND CAP IDENTIFICATION BADGES AT ALL TIMES WHEN DEALING WITH THE PUBLIC. THE ONLY EXCEPTION TO THIS SHOULD BE WHEN IN A POLICE BUILDING, WHEN DRIVING OR RIDING IN A MARKED POLICE VEHICLE OR IN SPECIAL CIRCUMSTANCES WHERE COURTESY DICTATES.

(v) THAT CURRENT OPERATIONAL PROCEDURES REGARDING MAJOR INCIDENTS BE AMENDED TO INCLUDE A PROVISION REQUIRING THAT THE DISTRICT COMMANDER BE INFORMED IMMEDIATELY OF A MAJOR INCIDENT AND THAT HE BE RESPONSIBLE FOR ENSURING THAT SUFFICIENT SUPERVISORY OFFICERS ATTEND TO PROVIDE PROPER DIRECTION AND ADVICE TO OFFICERS AT THE SCENE.

(vi) THAT THE CHIEF OF POLICE CONSIDER THE USE OF MITRE RADIO SETS OR OTHER SIMILAR ELECTRONIC EQUIPMENT AS A MEANS OF EFFECTIVE COMMUNICATION IN INCIDENTS INVOLVING LARGE NUMBERS OF OFFICERS AND THAT THE DISTRICT COMMANDER BE RESPONSIBLE FOR ENSURING THAT SUFFICIENT EQUIPMENT IS PROVIDED, IN ORDER TO PROVIDE PROPER DIRECTION AND ADVICE TO OFFICERS AT THE SCENE.

(vii) THAT CURRENT OPERATIONAL PROCEDURES REGARDING MAJOR INCIDENTS BE CLARIFIED TO STRESS THAT ALL OFFICERS PRESENT ARE REQUIRED TO COMPLY WITH ALL THOSE INSTRUCTIONS FROM SUPERVISORY PERSONNEL AND THAT THOSE INSTRUCTIONS PRECLUDE INDEPENDENT ACTION. THE CIRCUMSTANCES IN WHICH INDEPENDENT ACTION IS JUSTIFIED SHOULD BE DEFINED WITH AS MUCH PRECISION AS POSSIBLE.

(viii) THAT A "RECORDING OFFICER" BE ASSIGNED TO ALL MAJOR INCIDENTS TO KEEP A CURRENT LOG RECORDING ALL DETAILS OF INSTRUCTIONS GIVEN, ACTIONS TAKEN, DECISIONS MADE, OBSERVATIONS OF SUPERVISORY PERSONNEL AND ALL OTHER INFORMATION WHICH MAY BE PERTINENT TO A LATER REPORTING OF THE OCCURRENCE. THIS WOULD PLACE LESS RELIANCE ON THE INDIVIDUAL MEMORIES OR RECOLLECTIONS OF OFFICERS WHO MAY BE ACTIVELY ENGAGED IN THE OCCURRENCE.

(ix) THAT EVERY OFFICER WHO WAS PRESENT AT MORRISH ROAD BE REQUIRED TO TAKE A REFRESHER COURSE ON CROWD CONTROL AND BATON TRAINING AND THAT THE CHIEF OF POLICE CONSIDER THE ADEQUACY OF THE AMOUNT OF IN-SERVICE TRAINING PRESENTLY GIVEN TO CONSTABLES.

3. Jane/Finch Initiatives

The Jane/Finch area of Toronto has been the subject of much debate concerning police/minority relations. The area in question is one of high density housing, with considerable problems in unemployment and race relations. There has also been considerable public concern in regard to the police force's relationship with the Jane/Finch community.

On November 12, 1982, the police force conducted a drug investigation in the Jane/Finch area which resulted in the arrest of 23 people. A number of Jane/Finch residents complained to the local Legal Aid clinic that the arrest had involved harassment, illegal searches and seizures, and other types of police misconduct. In response to a request from the Legal Aid clinic, two P.C.C. investigators attended on several occasions at the clinic to receive complaints. One complaint was received in relation to the November 12, 1982 drug investigation. Three other unrelated complaints were also received. In addition, the P.C.C. assumed the on-going investigation into nine other complaints, based on incidents that had occurred on other dates.

In view of the public interest in the situation and the reluctance of the complainants to have any dealings with the police, the P.C.C. conducted part of the initial investigation into these complaints. The investigation of these complaints resulted in 50 civilians and 58 police officers being interviewed by either the Bureau or members of the P.C.C. staff. Essentially, Bureau investigators interviewed the police witnesses, and the P.C.C. investigators interviewed the civilian witnesses.

Of the 13 Jane/Finch complainants, 5 withdrew their cases. In one case the Deputy Chief of Police tendered an apology for the embarrassment caused by a street stop and questioning. In another case, the Deputy Chief of Police cautioned two constables about abuse of their power to search and to demand identification. In neither case did the complainant request a review of this decision.

In four cases, the Chief's designate found no action was warranted, and the complainants did not request review of this decision. In the two remaining cases, the complainant requested a review by the P.C.C.. In both cases, the Commissioner ordered Board hearings. The first case involved a complaint of an illegal search. After hearing all the evidence and submission of counsel, the Police Complaints Board reviewed the law in the matter and found that the officers had acted legally and reasonably. The second case was withdrawn by the complainant.

It should be noted that there have been other complaints coming from the Jane/Finch area since the November 1982 P.C.C. investigation. However, these complaints have been processed through the complaints system without the need for intervention by the P.C.C. in the initial investigative stage. It would appear that the community, assisted by the legal aid clinic, has gained some degree of trust in the system, as evidenced by their willingness to use it compared to their refusal to have complaints dealt with by the police in 1982.

4. Regent Park Complaints

The Regent Park area of Toronto, like the Jane/Finch area, is a community characterized by low income, high unemployment, and relatively high density housing. For some years, there have been sporadic expressions of public concern in regard to police/community relations, among other problems in the area. Most recently, police/community relations problems began to escalate early in 1983 with a number of incidents, including allegations of beatings and racism. The Residents' Association in Regent Park formed a subcommittee called the Regent Park Committee Against Police Harassment. Members of this committee and representatives of agencies active in the area held a number of meetings to discuss the problems. Accompanied by an Alderman for the area and representatives of the Human Rights Commission, some Committee members approached the Superintendent of 51 Division, the Division in charge of policing the area, to put forward their concerns. However, the situation was not resolved, and thereafter, the Committee took the view that communciation with the police force had proved futile and that efforts should be discontinued.

In October, 1983, the P.C.C. was advised by members of the Multicultural Relations Office of the Municipality of Metropolitan Toronto that a serious situation existed regarding police/community relations in Regent Park. Representatives of the P.C.C. got in touch with the Regent Park Tenants' Association and through them the Regent Park Committee Against Police Harassment. A meeting was arranged with the Committee to inform them about the office of the Police Complaints Commissioner. Eventually 15 complaints were referred through the Regent Park Committee to the P.C.C. The complaints, which were filed in January, 1984, are going through the complaint system at present. Due to the complainant's reluctance to speak to police officers, the P.C.C. has conducted part of the initial investigation, and will be preparing investigation reports for each complaint.

At meetings with residents of Regent Park, a number of complaints emerged which had less to do with individual officers' misconduct, than with community dissatisfaction with specific police practices and procedures. In particular, there are complaints about general harassment and racism.

The Public Complaints Commissioner takes the view that problems in police/community relations are best solved by dialogue between the police and the community concerned. Since there appeared to be an impasse in communication between 51 Division and Regent Park residents, the Commissioner undertook to mediate between the residents and the police. With the agreement and support of the police force, the Aldermen in the area, the Race Relations Division of the Human Rights Commission, and the Regent Park Committee, meetings are currently taking place. The Commissioner's plan is to continue discussions of the situation and elicit suggestions for its improvement from both parties, to identify areas in which understanding might be reached and to bring the parties together, thereby facilitating communication and problem-solving between the residents and the Police Force. The P.C.C. is also consulting with agencies which might prove helpful in implementing solutions to the myriad problems involved in the situation. Excellent cooperation is being demonstrated by both Regent Park residents and the Police Force, and efforts to devise solutions continue.

C. RESEARCH

An extensive research program was designed at the inception of the project, to collect the maximum amount of information on the operation of the complaints system. The collection of research and statistics by the Public Complaints Commissioner is directed towards two aims -improving methods of processing public complaints against police officers and identifying patterns or trends with a view to being able to assist the management of the police force in taking preventative action.

1. Improving Methods of Processing Complaints

The P.C.C.'s research into methods of processing complaints involved two major activities: compiling data on systems used in other jurisdictions, and collecting information by way of research instruments designed to reflect the opinions and reactions of both police officers and complainants under the new system.

Through personal visits, written correspondence and attendance at conferences, the P.C.C. has now collected data on public complaints systems operating in over 25 other jurisdictions including other Canadian provinces, the United States, England, Australia, Bermuda, the Netherlands, Northern Ireland and Nigeria. Much of this data was compiled as part of the research undertaken before the present Act was drafted. However, the files are kept up to date through correspondence with the other jurisdictions.

A questionnaire was administered to all officers of the Metropolitan Toronto Police Force shortly after proclamation of the Act in order to gauge their impressions of the Commission and to enable them to air any concerns that they might have. All officers were sent a copy of this questionnaire and a covering letter informing them of its purpose. This resulted in a 20% response rate, with 1,013 questionnaires completed and returned to the P.C.C. In addition, the Commissioner and P.C.C. staff take note of any observations made during their frequent contacts with police officers.

Another questionnaire was designed for distribution among all complainants. The purpose of this questionnaire is to gather information on the complainants' impressions of the complaints procedure, their satisfaction with the investigation and their feelings about the outcome. These are only a few of the numerous areas explored in the questionnaire.

The complainant questionnaire is sent to all complainants at the end of the complaint process; that is, after the complainant has received the Chief of Police's decision, or after review or Board hearing. 18.9% of complainants in the first year completed the questionnaires and returned them to the P.C.C.

2. Identification of Patterns and Trends in Complaints

In addition to the questionnaires mentioned above, the P.C.C. has developed a major research instrument for the purpose of gathering extensive data on each file. The Complaint Recording Form records information such as the date, time, location and police division of the occurrence; number and type of allegation; precipitating factors and injuries (if any) and extensive details on all stages of the complaint process from the date of filing to the date of final disposition. Information relating to the time period involved from one stage of the process to various other stages was also gathered in order to provide an indication of how efficiently the system is operating.

The recording of this and other information provides data that is likely to be extremely useful in assisting police management to identify areas where preventative measures are necessary, and has already begun to be used in this way.

Statistics extracted from the Complaint Recording Form are reviewed in the next section of this report.

PART III - RESEARCH AND STATISTICS

A. INTRODUCTION

Research data and statistics on all phases of the complaints procedure were gathered for the second year of operation of the P.C.C. from December 21, 1982 to December 20, 1983. All cases that were closed within that period are included in the present database. It should be noted that these statistics deal only with public complaints filed against police officers in the Metropolitan Toronto Police Force.

A total of 758 cases were opened in 1983, compared to 922 cases opened in 1982. Of the 1,039 cases that were open at some point during 1983,* 757 cases were closed (completed) by December 20, 1983; 258 cases remained open and 24 failed to develop.**

The 758 cases filed in 1983 represent an average of roughly 63.2 cases per month. The actual number of complaints that were filed each month is presented below.

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* The 1,039 cases consist of 758 cases opened in 1983 plus 281 cases carried over from 1982, in which the investigations had not been completed that year.

** Cases that failed to develop were cases that included, among others, complainants who arranged meetings with investigators but failed to attend, complainants who failed to contact the Office or who did not respond to follow-up letters, and complaints that proved to be out of the jurisdiction of the P.C.C.

	No.	%
January	81	10.7
February	62	8.2
March	63	8.3
April	71	9.3
May	67	8.8
June	52	6.9
July	63	8.3
August	65	8.6
September	69	9.1
October	46	6.1
November	56	7.4
December	63	8.3
TOTAL	758	100.0

Once a complaint case is completed, the closed file is forwarded to the Research Section and a Complaint Recording Form completed. The Complaint Recording Form is designed to obtain maximum information from each complaint case filed, such as: the date, location and police division of the occurrence; number and type of allegations; precipitating factors and alleged injuries, and extensive details on all stages of the complaint process from the date of filing to the date of final disposition. Information relating to the time involved from one stage of the process to various other stages is also gathered in order to provide an indication of how efficiently the system is operating.

B. RESEARCH FINDINGS GATHERED FROM COMPLAINT RECORDING FORMS

The statistics collected from the Complaint Recording Form for cases closed between December 21, 1982 and December 20, 1983 will be presented below. This database of closed cases consists of a total of 757 cases.

1. Where Complaints Filed

The majority of the complaints were once again filed at a police station (42.8%); 24.8% were filed with the Public Complaints Commissioner; 24.4% were filed with the Public Complaints Investigation Bureau; 5.8% were filed with the Chief of Police. 1.3% of the complaints were filed with the Ontario Police Commission, while another 0.3% were filed with the Attorney General and detention centres, respectively.

Roughly one-quarter of all the complaints filed (24.8%) were filed with the P.C.C. This figure represents an increase of 5% from last year's figure of 20%. Thus, it would appear that word of the office is spreading. These data may be found in Table 1.

14.1% of the complaints were filed by letter while 85.9% were filed in person.

2. Time and Date of Complaint Incident

A slightly higher number of complaint incidents appeared to occur over the weekend -- from Friday to Sunday, which accounted for roughly half of all complaint occurrences (47.7%). There was a relatively equal

TABLE 1

LOCATION WHERE COMPLAINTS FILED

	No.	%
POLICE STATION	324	42.8
PUBLIC COMPLAINTS COMMISSIONER	188	24.8
PUBLIC COMPLAINTS INVESTIGATION BUREAU	185	24.4
CHIEF OF POLICE	44	5.8
ONTARIO POLICE COMMISSION	10	1.3
ATTORNEY GENERAL	2	0.3
DETENTION CENTRE	2	0.3
OTHER	2	0.3
TOTAL CASES	757	100.0

distribution of occurrences on the remaining days ranging from 12% to 14% per day. The full list of the days of the week and the respective number of complaint incidents taking place on each day may be found in Table 2.

The days on which complaints were actually filed, however, vary considerably from the days on which the complaints actually occurred. The variance between occurrence date and the filing date is attributable to the fact that relatively few complaints (28.3%) were filed on the same day as the date of the complaint incident. The most frequent days on which complaints were formally lodged were at the beginning of the week from Monday to Wednesday -- accounting for 56.2% of all complaints filed. Relatively few complaints were filed on Saturdays and Sundays. These data may be found in Table 3.

With respect to the time of day at which a complaint incident occurred, roughly 60% of the incidents leading to complaints took place between 6 p.m. and 3 a.m. (58.3%). The one time period which accounted for the greatest number of total occurrences was from midnight to 3 a.m. -- 26.9% of all occurrences took place during this time period. The complete list of time of occurrences is presented in Table 4.

3. Time from Date of Occurrence to Date of Filing

The number of days from the date a complaint incident took place to the date the complaint was actually filed averaged 12.8 days. This figure is somewhat misleading, however, since over two-thirds of the complaints (68.6%), were filed within one week of the occurrence: 28.3% of the complaints were filed on the same day as the date of the occurrence, while 17.3% were filed on the next day.

TABLE 2

DAY COMPLAINT INCIDENT OCCURRED

	No.	%
MONDAY	94	12.8
TUESDAY	89	12.1
WEDNESDAY	104	14.1
THURSDAY	98	13.3
FRIDAY	103	14.0
SATURDAY	112	15.2
SUNDAY	136	18.5
TOTAL CASES	736*	100.0

* NOTE: When the total of the "number" column is less than the actual total for the database (757), the difference is due to the fact that some information required for the table was missing, thus reducing the total for that particular measure.

TABLE 3

DAY COMPLAINT FILED

	No.	%
MONDAY	140	18.4
TUESDAY	153	20.2
WEDNESDAY	133	17.6
THURSDAY	121	16.0
FRIDAY	108	14.3
SATURDAY	43	5.7
SUNDAY	59	7.8
TOTAL CASES	757	100.0

TABLE 4

TIME COMPLAINT INCIDENT OCCURRED

	No.	%
12:01 A.M. TO 3:00 A.M.	189	26.9
3:01 A.M. TO 6:00 A.M.	48	6.8
6:01 A.M. TO 9:00 A.M.	27	3.8
9:01 A.M. TO NOON	67	9.5
NOON TO 3:00 P.M.	61	8.7
3:01 P.M. TO 6:00 P.M.	91	12.9
6:01 P.M. TO 9:00 P.M.	92	13.1
9:01 P.M. TO 12:00 P.M.	129	18.3
TOTAL CASES	704	100.0

11.9% were filed two to three days later, while another 11.1% of the complaints were filed four to seven days after the occurrence. The data on the number of days from the date of occurrence to date of filing is presented in Table 5.

4. Month of Occurrence

No discernible pattern was found with respect to the month in which complaint incidents occurred. There was a fairly equal distribution of occurrences over the 12 months of the year, with the exception of the month of May, which yielded the highest number of occurrences (12.2%). With the exception of May, the remaining months average 8.0% of the occurrences, ranging from 6.1% to 9.7%. The high number of occurrences in the month of May is accounted for by the fact that the Morrish Road incident, which involved a large number of complaints, occurred during this month. These data are presented in Table 6.

5. Location of Complaint Incident

52.4% of the incidents that led to the lodging of complaints against the police took place on the street. The next most frequent location was at a residence (19.6%). In order of declining frequency, incidents also occurred in: police buildings (13.0%), public buildings (10.6%), plazas or malls (1.6%), school yards (1.5%), and police vehicles (0.8%). The complete list of locations of occurrences leading to complaints may be found in Table 7.

TABLE 5

TIME FROM DATE OF OCCURRENCE TO DATE OF FILING

	No.	%
SAME DAY	209	28.3
1 DAY	128	17.3
2-3 DAYS	88	11.9
4-5 DAYS	48	6.5
6-7 DAYS	34	4.6
8-14 DAYS	61	8.3
15-21 DAYS	44	6.0
22-30 DAYS	38	5.2
31-45 DAYS	23	3.1
46-60 DAYS	14	1.9
61-90 DAYS	11	1.5
OVER 90 DAYS	40	5.4
TOTAL CASES	738	100.0

$\overline{X}$ DAYS = 12.8

TABLE 6

MONTH OF OCCURRENCE

	No.	%
JANUARY	66	8.8
FEBRUARY	63	8.3
MARCH	46	6.1
APRIL	57	7.6
MAY	92	12.2
JUNE	48	6.4
JULY	57	7.6
AUGUST	73	9.7
SEPTEMBER	68	9.0
OCTOBER	56	7.4
NOVEMBER	67	8.8
DECEMBER	61	8.1
TOTAL CASES	754	100.0

TABLE 7

LOCATION OF COMPLAINT INCIDENTS

	No.	%
STREET	395	52.4
RESIDENCE	148	19.6
POLICE BUILDING	98	13.0
PUBLIC BUILDING	80	10.6
PLAZA OR MALL	12	1.6
SCHOOLYARD	11	1.5
POLICE VEHICLE	6	0.8
OTHER	4	0.5
TOTAL CASES	754	100.0

6. Police Divisions Involved in Complaints

The Police Division with the highest incidence of complaints was once again 52 Division, which accounted for 16.2% of all the complaints lodged. 55 Division had the next highest incidence with 9.4% of all complaints, followed by 14 Division with 8.4%. 31 Division accounted for 7.9% of all complaints while 43 Division accounted for 5.6% and 41 Division for 5.4%. The remaining Divisions all had 5.0% or fewer complaints lodged against their police officers. The full list of Police Divisions in which complaints occurred may be found in Table 8.

In an attempt to account for the rather high incidence of complaints arising out of 52 Division, one may again point to its location in the downtown core where there is considerably more activity than in other areas. The high number of contacts that officers of this Division have with the public could also contribute to a greater number of complaints arising out of this Division. Another factor may be that 52 Division has the largest number of police officers of any Division in Metropolitan Toronto.

7. Types of Complaint Allegations

The average number of allegations per complainant was 2.0. 67.5% of the cases contained one (33.3%) or two (34.2%) complaint allegations. Three, four or five complaint allegations were made by 23.0%, 7.5% and 1.7% of the complainants respectively. Two cases (0.2%) involved six and seven complaint allegations per case.

TABLE 8

POLICE DIVISION IN WHICH COMPLAINTS OCCURRED

POLICE DIVISION	1982 No.	1982 %	1983 No.	1983 %
DIVISION 11	31	5.2	30	4.1
DIVISION 12	18	3.0	18	2.5
DIVISION 13	38	6.4	29	4.0
DIVISION 14	68	11.4	62	8.4
DIVISION 21	12	2.0	15	2.0
DIVISION 22	27	4.5	35	4.8
DIVISION 23	29	4.9	27	3.7
DIVISION 31	35	5.9	58	7.9
DIVISION 32	41	6.9	33	4.5
DIVISION 33	19	3.2	27	3.7
DIVISION 41	22	3.7	40	5.4
DIVISION 42	11	1.8	18	2.5
DIVISION 43	21	3.5	41	5.6
DIVISION 51	24	4.0	37	5.0
DIVISION 52	88	14.7	119	16.2
DIVISION 53	39	6.5	40	5.4
DIVISION 54	22	3.7	36	4.9
DIVISION 55	52	8.7	69	9.4
TOTAL CASES	597	100.0	734	100.0

The most frequent type of allegation lodged against a police officer was assault: half of the complaints filed involved an allegation of assault against a police officer -- 42.3% complained of common assault while 8.6% complained of assault causing bodily harm. The second most frequent complaint was that of verbal abuse/ incivility, with 47.0% of the complainants filing this type of complaint. The following four types of complaints also appeared with some regularity: harassment/oppressive conduct/threats 29.3%; irregularity in procedure 26.6%; mishandling of property 10.8%; neglect of duty 8.7%; unlawful arrest 7.1% and unlawful search 5.9%. The complete list of types of complaints and the number of complainants who complained of each type may be found in Table 9*.

8. Precipitating Factors

The actual incident that led to or precipitated the complaint was also recorded in the complaint recording form. The most common type of incident involved a criminal investigation by the police: 34.3% of all complaints arose out of this situation. The second most frequent precipitating factor was police officers stopping people for traffic violations (26.4%). The only other precipitating factor which occurred with any regularity was arrest: 16.8% of the complaints resulted from an incident that occurred during the arrest of the complainant. There appeared to be no apparent precipitating factor in 7.3% of the cases. The full list of precipitating factors is presented in Table 10.

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* For some areas of particular interest, the frequency distributions for the two years of data collection (1982 and 1983) were included in the Tables.

TABLE 9

TYPES OF COMPLAINT ALLEGATIONS FILED

	1982		1983	
	No.	%	No.	%
ASSAULT	290	47.7	385	50.9
COMMON ASSAULT	230	37.8	320	42.3
ASSAULT BODILY HARM	60	9.9	65	8.6
VERBAL ABUSE/INCIVILITY	291	47.8	356	47.0
HARASSMENT/THREAT/ OPPRESSIVE CONDUCT	184	30.2	222	29.3
IRREGULARITY IN PROCEDURE	101	16.6	201	26.6
NEGLECT OF DUTY	66	10.8	66	8.7
MISHANDLING OR DAMAGE TO PROPERTY	52	8.5	82	10.8
UNLAWFUL SEARCH	34	5.6	45	5.9
UNLAWFUL ARREST	28	4.5	54	7.1
TRAFFIC IRREGULARITY/IMPROPER EXERCISE OF DISCRETION	22	3.6	15	2.0
DECEIT	11	1.8	24	3.2
TRAFFIC IRREGULARITY BY OFFICER	10	1.6	20	2.6
INADEQUATE POLICE SERVICE	8	1.3	0	0.0
CORRUPTION/THEFT/FRAUD	5	0.8	12	1.6
IRREGULARITY RE: EVIDENCE	5	0.8	6	0.8
SEXUAL HARASSMENT	4	0.7	1	0.1
BREACH OF CONFIDENCE	2	0.3	2	0.3
INTOXICATED	0	0.0	7	0.9
NO FOLLOW-UP	0	0.0	4	0.5
OTHER	4	0.7	5	0.7
TOTAL RESPONSES	1117	183.4	1507	199.0

NOTE: The total percentage of complaint allegations exceeds 100% due to the fact that some complainants lodged more than one allegation. The percentages reported above reflect the percentage of complainants who lodged each type of complaint allegation.

TABLE 10

FACTORS PRECIPITATING COMPLAINTS

	1982		1983	
	No.	%	No.	%
TRAFFIC VIOLATION	225	37.0	200	26.4
CRIMINAL INVESTIGATION	159	26.1	260	34.3
ARREST	94	15.4	127	16.8
INTERROGATION	23	3.8	21	2.8
PARKING VIOLATION	16	2.6	31	4.0
REQUEST IDENTIFICATION	16	2.6	12	1.6
DOMESTIC MATTER	13	2.1	8	1.1
BYLAW INVESTIGATION	0	0.0	27	3.6
DURING COURT PROCEEDINGS	0	0.0	3	0.4
LANDLORD/TENANT DISPUTE	0	0.0	3	0.4
OTHER	13	2.1	10	1.3
NO APPARENT PRECIPITATING FACTOR	50	8.2	55	7.3
TOTAL CASES	609	100.0	757	100.0

A description of each type of precipitating factor is provided below.

Traffic Violations:

Sole cause of police intervention is a Highway Traffic Act offence (not Criminal Code offence such as impaired driving, which would be coded as criminal investigation) and the allegation of misconduct arises out of this intervention. Example: Allegation that officer called complainant a "goof" when giving a speeding ticket.

Criminal Investigation:

Sole cause of police intervention is the investigation of a criminal offence. Police may have been called in or intervened of their own accord and the allegation of misconduct arose when they were in the process of investigating a crime. Criminal investigation could occur anywhere, e.g. residence, shopping mall, police building.

Example: Allegation of assault at police station while officers attempting to take a statement from the complainant to confess to a crime. Example: Officer has a description of a suspect. Complainant is walking along street. Officer thinks he has reasonable and probable grounds to believe that complainant is the suspect. Officer asks for identification. Complainant refuses. Officer arrests complainant. Allegation is that officer has no right to ask for identification.

Arrest:

Allegation of misconduct occurs while police are in the act of effecting an arrest. Example: Same as in Criminal Investigation example, except that allegation is that officer struck complainant at time of arrest.

Interrogation Unrelated to Criminal Activity:

Questioning complainant about matters not related to any specific criminal offence. No indication that complainant is under arrest although he may be detained. If detained, complainant is released without being charged. Example: Complainant is walking along the street and asked why she is walking alone late at night, where she lives, who she lives with and where she works. Allegation is that officer was harassing her.

Request for Identification:

Sole cause of police intervention is request for identification. No indication that complainant was involved in any offence or that police were investigating any offence and not a situation where it may be mandatoryto identify oneself (e.g., Highway Traffic Act). Example: Complainant is walking along street and police officer asks her for her name. Complainant refuses and police officer then asks her to produce identification. Complainant again refuses. Allegation is that officer had no right to ask for identification and that officer shouted and swore at complainant following her second refusal; when she finally complied, the officer detained her in his police cruiser for twenty minutes while he checked her out over his radio.

Parking Violation:

Sole cause of police intervention is a parking violation and allegation of misconduct arises out of this intervention. Example: Allegation that officer improperly exercised discretion when she gave complainant a ticket in a no parking zone. Complainant drives for a courrier service in a clearly marked stationwagon with an "on delivery" sign. He was away from his vehicle for five minutes and officer was just beginning to write ticket when he returned, but would not listen to his explanation.

Domestic Matter:

Sole cause of police intervention was a call to assist in a domestic dispute and allegation arises out of this intervention. Example: Allegation that officer struck complainant whose wife had called police to help her defend against a drunken husband.

No Precipitating Factor:

No apparent cause that precipitated the complaint. Example: Complainant standing on sidewalk. Police cruiser stops and with hand motions complainant to cross. Complainant did not wish to use crosswalk, i.e., was waiting for streetcar and motioned officer to this effect. Verbal abuse allegation followed.

Other:

Situations that do not fall into any of the above categories. Example: Police officer attended complainant's home in uniform to collect overdue rent. Officer is landlord of this building.

9. Alleged Injuries and Damages

There were no injuries alleged in 62.7% of the complaints filed. For the remainder, the most frequent type of injury alleged was cuts or bruises: 35.7% of the complainants reported this type of injury. The remaining types of injuries alleged occurred with very little frequency: 3.5% complained of injuries or pain inflicted by handcuffs while another 4.1% of the complainants reported fractures, internal injuries, damage to teeth, etc. The full list of alleged injuries to complainants may be found in Table 11.

TABLE 11

ALLEGED INJURIES TO COMPLAINANTS

	1982		1983	
	No.	%	No.	%
CUTS, BRUISES	185	30.6	269	35.7
HANDCUFF INJURIES	30	5.0	26	3.5
INTERNAL INJURIES	15	2.5	6	0.8
GENITALIA INJURIES	10	1.7	2	0.3
FRACTURES	9	1.5	13	1.7
TEETH	9	1.5	10	1.3
OTHER	3	0.5	0	0.0
NO INJURIES	398	65.9	472	62.7
TOTAL RESPONSES	659	109.2	798	106.0

NOTE: The total number of injuries alleged exceeds 100% due to the fact that a complainant could have suffered from more than one injury.

The severity of the injuries was also recorded with respect to those complainants who alleged injuries: 44.4% of the alleged injuries were minor in nature (mild bruises, small lacerations - i.e. scratches); 44.8% of the alleged injuries were moderate (extensive bruising, cuts, swelling), while 10.8% of the alleged injuries were considered to be serious in nature (very extensive bruising, fractures, severe lacerations, severe swelling, internal injuries).*

Among those cases where injuries had been alleged, complainants attended a hospital in 36.7% of these cases.

Of those cases in which allegations of assault had been made, 18.7% made mention of a baton being used in the assault allegation. Batons were allegedly used in a variety of ways: the police officer held the baton to the complainant's neck, jabbed, poked or hit the complainant with the baton.

The incidence of property damage claimed by complainants was relatively low. Only 9.6% of the complaints involved allegations of property damage. In 5.5% of the complaints, alleged damage was considered to be minor in nature (damage estimated under $75 - small scratches, dents, etc.), while in 1.7% of the complaints, alleged damage was of moderate severity (damage estimated under $150 - broken windows, damaged doors, etc.). The remaining 2.4% of the cases involved allegations of serious property damage estimated at a value greater than $150.*

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* The degree of severity for the injuries recorded was a subjective judgement made on the part of the researcher coding this information.

10. Photographs Taken

In cases of injury or property damage, no photographs were taken in 49.3% of the cases. This may be accounted for by the fact that the injuries involved in many of these cases were no longer visible at the time the complaint was filed. In addition, where the injury was internal, and thus not visible, no photographs would be taken. Photographs were taken by the Police Identification Unit in 39.6% of the cases, by the Public Complaints Commissioner in 8.2% of the cases, and by the complainant or others in 2.9% of the cases.

It is noteworthy that the number of photographs taken increased by almost 10% from the previous year (at which time there was an increase of 15% from the period before). This further demonstrates the fact that the new investigative format under the Act which requires the police to photograph any alleged injury or alleged damage at the earliest possible opportunity, is having an effect. The data on photographs taken are presented in Table 12.

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* The degree of severity for the property damage noted was a subjective judgement made on the part of the researcher coding this information.

TABLE 12

PHOTOGRAPHS TAKEN OF INJURIES ALLEGED TO HAVE RESULTED FROM POLICE MISCONDUCT

	1982		1983	
	No.	%	No.	%
BY POLICE IDENTIFICATION UNIT	71	34.8	111	39.6
BY PUBLIC COMPLAINTS COMMISSIONER	10	4.9	23	8.2
BY OTHERS	3	1.5	1	0.4
BY COMPLAINANT	1	0.5	3	1.1
BY BUREAU	0	0.0	4	1.4
NO PHOTOGRAPHS TAKEN	119	58.3	138	49.3
TOTAL CASES	204	100.0	280	100.0

11. Type of Police Mobilization

In 70.5% of the cases the police used their own discretion to intervene. In 29.5% of the cases, the police were called, that is, their assistance was requested and a complaint incident subsequently arose out of the situation.

In 58.1% of the cases the complainants were not in police custody at the time of the complaint incident. In 41.9% of the cases the complainant was either being taken into custody or was actually in custody at a Police Station at the time of the complaint incident.

C. DATA ON COMPLAINANTS

1. Police Division of Complaint

The Police Division in which the complaint incident actually occurred was often the same as the one in which the complainant lived, or was adjacent to the Division where the complainant lived. 48.4% of the complainants lived in the same Police Division as that of the occurrence while 19.2% lived in a Division adjacent to the Division of the occurrence. 32.4% of the complaint incidents did not take place in a Division close to the complainant's residence.

2. Sex, Age & Residence of Complainants

The great majority of complainants was once again male (82.6%); female complainants comprised 17.4% of the total. Complainants tended to be young, with roughly three quarters of them being 35 years of age or under: 43.7% were 25 years of age or under while 29.9% were 26 to 35 years of age. The full list of age categories of complainants may be found in Table 13.

TABLE 13

AGE OF COMPLAINANTS

	No.	%
UNDER 16 YEARS	14	2.1
16 TO 17 YEARS	25	3.9
18 TO 25 YEARS	242	37.7
26 TO 35 YEARS	192	29.9
36 TO 45 YEARS	100	15.6
46 TO 55 YEARS	53	8.3
56 TO 65 YEARS	14	2.2
OVER 65 YEARS	2	0.3
TOTAL CASES	642	100.0

The majority of complainants (80.9%) lived in unsubsidized housing while 7.5% lived in subsidized dwellings. These data are presented in Table 14.

15.7% of the complainants were allegedly or admittedly intoxicated or on drugs at the time of the complaint incident: 14.4% were allegedly or admittedly intoxicated while 1.3% were allegedly or admittedly on drugs.

3. Minority Aspect of Complaints

One aspect of the complaint, as seen from the complainant's perspective, was some form of racially derogatory comment in 9.4% of the cases, and harassment by police of homosexuals in 1.3% of the cases. Accordingly, the large majority of complaints filed (89.3%) did not appear to arise from racial or homosexual causes as perceived by the complainant.

TABLE 14

RESIDENCE OF COMPLAINANTS

	No.	%
UNSUBSIDIZED SINGLE/MULTIPLE DWELLING	425	59.3
UNSUBSIDIZED HIGHRISE	155	21.6
	580	80.9
SUBSIDIZED SINGLE/MULTIPLE DWELLING	19	2.7
SUBSIDIZED HIGHRISE	35	4.8
	54	7.5
OTHER	83	11.6
TOTAL CASES	717	100.0

4. Criminal Charges Against Complainants

In fewer than one third of the incidents giving rise to complaints (30.8%), the police laid criminal charges against complainants -- dangerous-driving charges, obstruct police, property offences, etc. The full list of criminal charges may be found in Table 15.* The vast majority of these charges (99.1%) were laid before a complaint had been filed by the complainant.

Of the 233 charges laid against complainants, the P.C.C. was unable to determine the outcome in 37 of the cases. Of the remaining charges, 56.2% of the complainants were found guilty as charged, while 20.4% were found not guilty. 14.3% of the charges were withdrawn. The outcome in 7.1% of the cases is still pending, while a bench warrant was issued in the remaining 2.0% of the cases.

D. POLICE OFFICERS INVOLVED IN COMPLAINTS

This section consists of a discussion of the police officers that were involved in the complaint allegations filed. 1058 police officers were involved in the closed cases for this year (excluding withdrawn cases)**.

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* In some cases there were multiple charges laid. Only the most serious charge was recorded for the purposes of our data collection.

** Data on police officers were not pursued in cases where the complaint was later withdrawn.

TABLE 15

CRIMINAL CHARGES* LAID BY POLICE AGAINST COMPLAINANTS

	1982		1983	
	No.	%	No.	%
NO CRIMINAL CHARGE	403	66.2	524	69.2
INTOXICATED, DISORDERLY	61	10.0	22	2.9
OBSTRUCT POLICE	44	7.2	54	7.1
DRIVING VIOLATION	42	6.9	43	5.7
PROPERTY OFFENCE	38	6.3	63	8.3
ASSAULT	10	1.6	34	4.5
PUBLIC MISCHIEF	0	0.0	3	0.4
OTHER	11	1.8	14	1.9
TOTAL CASES	609	100.0	757	100.0

NOTE: In some cases there were multiple charges laid. Only the most serious charge was recorded for the purposes of our data collection.

Officers in 33 cases could not be identified and were, thus, treated as missing data. On the average, there were 1.8 police officers involved per complaint filed.

Only one police officer was involved in 54.3% of the cases while two police officers were involved in 29.2% -- this accounted for 83.5% of the total. The data on the number of police officers involved per complainant may be found in Table 16.

The great majority of police officers (98.2%) were on duty at the time that the complaint incident occurred. Only 1.8% of the officers were off duty during the incident.

1. Rank of Police Officers Involved in Complaints

Very few of the police officers involved in complaints were senior officers: 3.4% were staff inspectors or staff sergeants (one staff superintendent), while 10.3% were sergeants. Thus, 13.7% of the total number of police officers involved in the complaints occupied a rank higher than constable. The majority of the officers complained of had the rank of police constable first class (74.5%). The remaining officers were second, third or fourth class constables. These data may be found in Table 17.

TABLE 16

NUMBER OF POLICE OFFICERS INVOLVED PER COMPLAINT

POLICE OFFICERS	No.	%
1	343	54.3
2	184	29.2
3	53	8.4
4	34	5.4
5	8	1.3
6	4	0.6
7	1	0.2
8	4	0.6
TOTAL CASES	631 *	100.0

$\overline{X}$ = 1.8 OFFICERS

* NOTE: The total number of relevant cases involved here is 655: 757 (total closed cases) minus 102 (withdrawn cases) = 655. There were 24 cases in which data on the number of police officers were missing, thereby reducing the total to 631.

TABLE 17

RANK OF POLICE OFFICERS INVOLVED IN COMPLAINTS

	1982		1983	
	No.	%	No.	%
STAFF SUPERINTENDENT	0	0.0	1	0.1
STAFF INSPECTOR	0	0.0	5	0.5
STAFF SERGEANT	16	1.8	30	2.8
SERGEANT	69	7.6	109	10.3
CONSTABLE 1	700	77.2	788	74.5
CONSTABLE 2	55	6.1	63	6.0
CONSTABLE 3	60	6.6	52	4.9
CONSTABLE 4	6	0.7	10	0.9
TOTAL OFFICERS	906	100.0	1058	100.0

2. Years of Service for Police Officers Involved in Complaints

9.9% of the police officers involved in complaints had one to two years of service while 17.6% had three to five years of service with the Force. The majority, 58.8%, had six to fifteen years of experience with the Force: 44.0% were with the Force six to ten years while 14.8% had been with the Force eleven to fifteen years. The remaining 13.7% had been with the Force for over sixteen years. These data may be found in Table 18.

3. Criminal Charges Against Police Officers

In nine cases (1.2%), criminal charges were laid against police officers. This includes three criminal charges resulting from the Chief's decision following the complaint investigation. In eight of these cases the charge laid was common assault and in the remaining one case, the charge was assault causing bodily harm. Two of the nine cases were withdrawn before they went to trial. In six of the cases the police officers were found not guilty while in one case the officer was found guilty as charged. This case is referred to in Section E.

E. DISPOSITIONS OF COMPLAINTS BY CHIEF OF POLICE

The dispositions of complaints given by the Chief of Police are presented over several tables. The overall dispositions are presented in Table 19. 58.2% of the cases were formally resolved after a complete investigation

TABLE 18

YEARS OF SERVICE FOR OFFICERS NAMED IN COMPLAINTS

	1982		1983	
	No.	%	No.	%
UNDER 1 YEAR	7	0.8	15	1.4
1 TO 2 YEARS	76	8.4	90	8.5
3 TO 5 YEARS	180	20.0	186	17.6
6 TO 10 YEARS	435	48.3	465	44.0
11 TO 15 YEARS	111	12.3	156	14.8
16 TO 20 YEARS	53	5.9	79	7.5
OVER 20 YEARS	39	4.3	65	6.2
TOTAL OFFICERS	901	100.0	1056	100.0

TABLE 19

DISPOSITIONS OF COMPLAINTS BY CHIEF OF POLICE

	1982		1983	
	No.	%	No.	%
FORMAL RESOLUTIONS	336	55.2	441	58.2
INFORMAL RESOLUTIONS	224	36.8	214	28.3
COMPLAINTS WITHDRAWN	48	7.9	102	13.5
OTHER	1	0.2	0	0.0
TOTAL CASES	609	100.0	757	100.0

had been conducted. This means that a decision was made by the Chief's designate regarding the complaint. 28.3% of the complaints were informally resolved to the expressed mutual satisfaction of both parties, while 13.5% of the cases were withdrawn.

A more detailed breakdown of the dispositions is presented in Table 20, consisting of an analysis of the entire sample with respect to the reasons for the dispositions given. Table 20A and 20B deal separately with the dispositions given for formal and informal resolutions respectively.

1. Formal Resolutions

441 of the cases in our sample (58.2%) were resolved formally. In 314 of the cases (41.5%) no action was warranted due to insufficient evidence to prove the allegation. The officer's statement was verified by an independent witness in 48 cases (6.3%). A finding that the officer had acted lawfully was made in 45 cases (5.9%). In 34 of these cases (7.7%) the Chief's designate took some action: in 22 (5.0%) of the cases, the officer was counselled and/or cautioned; 9 cases led to disciplinary charges under the Police Act and 3 cases resulted in the Chief of Police causing criminal charges to be laid.

The Police Force defines a "caution" as a form of discipline where the officer is warned that further misconduct may result in a charge pursuant to the Police Act. A "counsel" is used where the actions of the officer involved relatively minor infractions committed unintentionally or through inexperience. It means that a superior officer speaks to the subject officer with a view

TABLE 20

DETAILED ANALYSIS OF DISPOSITIONS OF COMPLAINTS

	No.	%
FORMAL RESOLUTIONS		
No action warranted due to:		
Insufficient evidence to prove allegation	314	41.5
Officer's statement verified by independent witness/corroborating evidence	48	6.3
Officer acted lawfully	45	5.9
Officer counselled and/or cautioned	22	2.9
Officer charged under Police Act	9	1.2
Officer charged under Criminal Code	3	0.4
TOTAL FORMAL RESOLUTIONS	441	58.2
INFORMAL RESOLUTIONS		
Officer admitted allegation/apologized or explained actions to satisfaction of complainant	128	16.9
Complainant content to make police force aware of complaint	53	7.0
Complainant acknowledged he may have been mistaken about alleged misconduct	13	1.7
Parties signified agreement by signature; no apparent reason for agreement	10	1.4
Officer advised/spoken to by superiors	8	1.1
No independent evidence to substantiate complaint	1	0.1
Officer counselled and/or cautioned	1	0.1
TOTAL INFORMAL RESOLUTIONS	214	28.3
COMPLAINTS WITHDRAWN	102	13.5
TOTAL DISPOSITIONS OF CASES	757	100.0

to help him or her to improve performance. Both are forms of discipline and are recorded in the police officer's file, which is retained at Headquarters.

In the nine cases in which police officers were charged under the Police Act, one charge was withdrawn, two officers were found not guilty and six officers were convicted. Penalties were forfeiture of days off or reduction in rank. In the case that was withdrawn, the withdrawal was at the request of the complainant. The officer apologized, and was counselled and cautioned.

In the remaining three cases, in which the officers were charged under the Criminal Code, one officer was acquitted. In another, the charge was withdrawn, however, the officer was subsequently charged under the Police Act, convicted, and was ordered to forfeit nine day's off.

In the third case, the officer was found guilty and received a conditional discharge with probation. One of the conditions of probation was a psychiatric assessment. The officer was also charged under the Police Act, found guilty and reduced in rank.

It should be noted that in the previous year, no officers were charged either under the Police Act, or under the Criminal Code.

2. Analysis of Formal Resolutions

In those cases where there was a finding of "no action warranted" the primary reason was insufficient evidence to prove or disprove the allegation. This was the reason given in 71.2% of the formal resolutions. These cases generally involved an allegation by the complainant and a denial of that allegation by the police officer with no independent evidence to support either version of the incident. This does not mean that the Chief allotted more weight to the police officer's version of the events nor that he doubted the word or motive of either the complainant or the police officer. Rather, it means that the Chief was unable to take action without sufficient evidence.

An example of a case where the Chief's designate found that no action was warranted due to insufficient evidence is the following:

> Mr. A. was involved in a motor vehicle accident. He alleged that during the course of investigating the accident a police officer twice called him stupid.
>
> The Public Complaints Investigation Bureau obtained information from the complainant, the officer, and the officer's partner who was present at the time. The accident report and a copy of the provincial offence notice was reviewed. The officer denied calling the complainant stupid, stating that when he told the complainant he was at fault and would be charged he became argumentative and accused the officer of implying that he was stupid. The officer's partner stated that at no time had the officer insulted the complainant.
>
> There was no other available evidence, and the Chief's designate concluded that no action was warranted.

Other reasons for a finding of "no action warranted" were that the police officer's position had been verified independently by other witnesses (10.9%) and that the officer had acted lawfully (10.2%). These data may be found in Table 20A.

TABLE 20A

ANALYSIS OF FORMAL RESOLUTIONS

	No.	%
No action warranted due to:		
Insufficient evidence to prove allegation	314	71.2
Officer's statement verified by independent witness/corroborating evidence	48	10.9
Officer acted lawfully	45	10.2
Officer counselled and/or cautioned	22	5.0
Officer charged under Police Act	9	2.0
Officer charged under Criminal Code	3	0.7
TOTAL FORMAL RESOLUTIONS	441	100.0

An example of a case where the Chief's designate found no action was warranted because the independent evidence corroborated the officer's statement is the following:

> Mr. B. and two friends were coming out of a store when they saw two police officers searching a man. The man had his coat off, and Mr. B. stated that he told the officers to give the man back his coat because it was cold outside. Mr. B. alleged that one of the officers told him to mind his own business, and then came over and pushed Mr. B. in the chest. Mr. B. pushed the officer back.
>
> In the course of investigating this complaint, the Public Complaints Investigation Bureau obtained information from the complainant, the complainant's two friends, several sales staff of the store in question, the man who had been searched, and the two officers involved in the incident.
>
> The subject officer stated that he had been investigating a complaint of shoplifting and was searching a suspect when three men came out of the store, stopped and started yelling at the police. The subject officer stated that the complainant did not tell him to give the suspect his coat back, but did say, "don't you have anything better to do than harass innocent people." The subject officer cautioned Mr. B. and alleged that Mr. B. became angrier, started swearing at the officers, and shoved him on the chest. He handcuffed Mr. B. and brought him to the police station for obstructing police officers. Mr. B. was eventually released without charge.
>
> Three store employees stated that when Mr. B. and his two friends entered the store they were loud, swaggering and boisterous, and it appeared that they had been drinking. They were talking and yelling in the store and disturbing customers. One employee said that she saw the subject officer talking to Mr. B. move backwards as

> if he had been pushed. She said that she did not see the subject officer assault anyone and that he did not use any profane language. The other two employees did not see what went on outside the store.
>
> The suspected shoplifter was also interviewed. He stated that the two officers had frisked him, that "three guys started pushing the officers around" and that "the three guys started it; the officers were just defending themselves." In this case the Chief's designate concluded that no action was warranted.

As stated above, another reason given by the Chief's designate for finding that no action is warranted is because the officer concerned has acted lawfully. The following case exemplifies the situation in which an officer was acting lawfully and no action was taken against him.

> Mr. C. was arrested by a police officer and an immigration officer at a fitness centre where he had been working out. The officer showed him a photograph of a man whom they said they were looking for. Mr. C. protested that he was not the same man; however, he was searched, handcuffed, and removed to a police car. Mr. C. alleged that the officer ignored information he gave him about where he worked, and his suggestion that the officer contact his wife for further information. Upon arrival at another location where there was an opportunity to consult with another immigration officer, the police officer and the immigration officer who arrested Mr. C. were informed that the suspect they were looking for had a tatoo. Mr. C. had no such tatoo. His handcuffs were removed and after some further investigation he was taken to his home and released.

The Public Complaints Investigation Bureau obtained information from the complainant, the subject officer, and the immigration officers involved. The immigration officers stated that they had been looking for a man who had multiple convictions in the U.S.A. for violent offences. The U.S. border patrol had alerted them that this person was considered to be armed and dangerous. He was also reported to be living at a particular address in Toronto. The immigration officers asked the police to assist them in attempting to apprehend this man; therefore two police officers accompanied two immigration officers to the address where the suspect was said to be living. Upon reaching the address, the immigration officers and the police officers stated that the occupant of the residence admitted that the suspect was living with her, and told them that the suspect was working out at a fitness centre on a particular Toronto street.

Upon receiving this information, one police officer and one immigration officer stayed with the informant, and one police officer and one immigration officer went to the location described. Upon arriving there, they saw the complainant, who appeared similar in physical description to the description of the wanted man. The fact that the complainant had identification in a name other than the name of the wanted man did not surprise the officers, as the wanted man used a number of aliases. The police officer stated that he handcuffed the complainant because of the information that the suspect, who, like the complainant, was a large man, was to be considered dangerous. The immigration officer stated that he telephoned the name given by the complainant into the immigration computer, but could find no information under that name. The immigration officer stated that although he did the computer check twice, no information was forthcoming. The police officer and the immigration officer took the complainant back to the informant's residence, and were informed by the other

> immigration officer that the suspect they wanted had a tattoo, whereas the complainant did not. The police officer and the immigration officer then took the complainant to his residence and spoke to his wife, who produced the complainant's passport with a photograph of him and his immigration file number. The immigration officer stated that he did one more computer check, and this time turned up the appropriate information on the complainant. Both the police officer and the immigration officer stated that they apologized to the complainant for troubling him.
>
> In this case, the Chief's designate on reviewing the file concluded that the police officer had been reasonable in acting on the information given by the immigration officer and that the police officer had also been acting lawfully. The Chief's designate concluded that no action was warranted against the officer.

A lawful action by an officer can give rise to discipline in certain circumstances. One such example is the following.

> Ms. D. was stopped by a police officer after she had left a store in which she had been shopping. The police officer asked Ms. D. to open her purse because Ms. D. had been accused of shoplifting. Ms. D. complied with this request. After searching the purse, the police officer also searched Ms. D.'s coat pockets. This was done in front of the store on a busy street in view of a number of people.
>
> In investigating the complaint, the Public Complaints Investigation Bureau obtained information from the complainant, the police officer, three of the complainant's relatives who were with her at the time, an employee of the store and the manager of the store.

The store employee had observed the complainant and her relatives while they were shopping, and noticed that one pocket of the complainant's jacket was bulging. She thought she saw a scarf in the pocket, but she did not actually see the complainant take anything. However, this employee alerted the police officer and advised her that she thought the complainant had stolen something.

The police officer stated that she was informed by the store employee that she had seen the complainant pay for one scarf and put the other in her pocket. The employee pointed the complainant out to the police officer, and the police officer approached the complainant and asked if she could have a look in her purse. The complainant agreed, and the officer looked in her purse and coat pockets. At this time, she said, one of the complainant's relatives asked her if the search could not be done inside. However, the officer felt that she would have more difficulty in searching the complainant inside the store as there were far fewer people on the street. (Due to the Boxing Day sale, the store was extremely crowded.) The officer stated that she was polite to the complainant, and that on finding nothing in the complainant's pockets she returned to the store and told the employees that the complainant had not stolen merchandise.

On reviewing the file, the Chief's designate pointed out that the police officer was acting lawfully. However, he did find that the officer ought to have asked the complainant to return to the store where the search could have been done more discreetly, out of the view of other people. The Chief's designate counselled the officer in this respect.

An example of a case where the Chief's designate cautioned a police officer is as follows:

> Mr. E. complained that as he was leaving a parking lot in his car he saw two police officers on the road waving at him to stop. He alleged that, as he stopped, the police officers ran towards his car and one of them struck his car on the hood with his nightstick. He further alleged that the officer who had struck his car opened the car door and dragged him out of the car claiming that he was driving dangerously. The complainant was subsequently charged with dangerous driving. The charge was dismissed when it came to court.
>
> The Public Complaints Investigation Bureau obtained information from the complainant, the subject officer, the officer's partner, a bus driver who happened to be passing at the time of the incident, and another person who was using the parking lot. They also photographed the complainant's car.
>
> While the police officer involved in the complaint stated that the complainant was driving dangerously and did not appear about to stop as the officer approached, some independent evidence supported the complainant's statement that he was in fact slowing to a stop.
>
> After reviewing the file, the Chief's designate recommended that the officer be charged, pursuant to the Police Act, for damaging the hood of the complainant's automobile with his baton. The Chief's designate also submitted a report to the Board of Commissioners of Police recommending that the complainant be reimbursed for the cost of repairing the automobile.
>
> After receiving the letter from the Chief's designate, Mr. E. contacted the police force, spoke to the Chief's designate, and asked him not to pursue the Police Act charge against the officer, as the complainant would find it impossible to

> attend to give evidence. The Chief's designate acceded to Mr. E.'s request. However, the complainant was reimbursed and the officer was cautioned against the improper use of his baton. A caution is the strongest form of discipline that can be imposed without a formal trial held under the Police Act.

In each case that is formally resolved, the Chief of Police or his designate is required to give written reasons for his decision to the complainant, the subject officer and the Public Complaints Commissioner. The complainant has a right to request a review of the Chief's decision if he is not satisfied with either the decision or the reasons given. During the second year ending December, 1983, 74 requests for review were made. 69 cases were closed within the year (some of these dating from the first year) and are dealt with separately in this report.

29 review cases remained open on December 20, 1983, and will be included in the following year's report.

3. Informal Resolutions

In 214 of the cases the complaints were resolved informally to the expressed mutual satisfaction of both parties.

Prior to the new legislation, an informal resolution was simply recorded by the complainant signing a form indicating that the results of the investigation were explained to him and that he was satisfied with the investigation that was conducted. The form contained no details of the actual investigation nor any indication of the manner in which the complaint was resolved. It was not necessary for the subject officer to sign the form. As a result, the system was open to criticism because it did not preclude the possibility of a complainant signing the form without knowing the officer's response to his complaint or the nature and extent of the investigation that was conducted.

Under the new legislation, the officer in charge of the Bureau is required to consider whether a complaint can be resolved informally. In addition, complaints may be resolved informally by a staff sergeant at a police station or by the Public Complaints Commissioner. Complaints can be resolved informally prior to, during or after completion of the investigation. However, a complaint may only be resolved informally if both the complainant and the subject officer agree. Furthermore, they must signify their agreement and satisfaction with the informal resolution by signing the specially designed form. (See Appendix II(c) for Record of Informal Resolution).

The manner in which the complaint is resolved must also be recorded. The form allows for a detailed explanation of the investigation conducted, including the officer's response, as well as an explanation of the manner in which the complaint was resolved. All informal resolutions are reviewed by the Public Complaints Commissioner.

4. Analysis of Informal Resolutions

The 214 informal resolutions were analyzed in an attempt to discover the reasons why the complainants agreed to this method of resolution. These data may be found in Table 20B.

Overall, complaints that were resolved informally tended to be simpler in nature in that they involved fewer allegations of misconduct. Formally resolved complaints contained 2.32 allegations of misconduct per complaint whereas informally resolved complaints contained 1.71 allegations of misconduct per complaint.

In 128 of the informal resolutions (59.7%) the police officer either admitted the facts alleged, or apologized or explained his actions to the satisfaction of the complainant.

An example of this type of admission/apology by an officer is as follows:

> Mr. A. was head of security for a large shopping centre. One morning at 10:00 a.m. a jewellery store reported a broken window and Mr. A. went to the store and called the police. An hour later the police had still not arrived and he called again. He was advised by radio room personnel that there was a serious accident in the area and that several units were tied up at the scene.
>
> At about 12:30 p.m. a police officer appeared and after asking several questions in a rather gruff manner, left the store. Mr. A. was annoyed by the perfunctory investigation and by the officer's manner. He filed a complaint.

TABLE 20B

ANALYSIS OF INFORMAL RESOLUTIONS

	No.	%
Officer admitted allegation/apologized or explained actions to satisfaction of complainant	128	59.7
Complainant content to make police force aware of complaint	53	24.8
Complainant acknowledged he may have been mistaken about alleged misconduct	13	6.1
Parties signified agreement by signature; no apparent reason for agreement	10	4.7
Officer advised/spoken to by superiors	8	3.7
No independent evidence to substantiate complaint	1	0.5
Officer counselled and/or cautioned	1	0.5
TOTAL INFORMAL RESOLUTIONS	214	100.0

> The Public Complaints Investigation Bureau checked police records and confirmed that in fact there had been a major incident in the area at the time and that several units were detailed to this occurrence. The Bureau investigator also checked that a report on the broken window had been properly submitted by the officer who attended at the store.
>
> The Bureau investigator first met with the complainant and explained the circumstances surrounding the delay in response to his call.
>
> He then arranged a meeting between the complainant and the subject officer. During the meeting the subject officer agreed that he should have been more thorough in his investigation. He also stated that there was no intention on his part to be discourteous or abrupt and that he regretted that this was the impression that was created. Both the complainant and the subject officer stated that they were content to informally resolve the matter in this way, and signed a Record of Informal Resolution of the complaint.

In 53 of the cases resolved informally (24.8%) the complainant was content simply to have brought the matter to the attention of the police force. An example of this is as follows:

> The complainant was driving his car when he was stopped for speeding. When asked for his driver's licence he was unable to produce the entire licence or proof of insurance. However, he was able to produce these documents shortly after the incident.
>
> The complainant asked to see the speed at which he had been going as registered on the radar machine. The officer was unable to show the speed on the machine. The complainant was given a ticket for speeding and for failing to wear his seatbelt.

> The Public Complaints Investigation Bureau checked with the Superintendent in charge of the Traffic Unit and was informed that, at the time in question, a new radar machine had recently replaced the previously used machines. It was not uncommon for an operator experienced with the old machine to make a technical mistake that would result in failure to "lock on" to the speed of a vehicle, thereby making it impossible for the driver to view his speed on the machine.
>
> The complainant insisted that he had only travelled about 100 yards when he was stopped for speeding. The officer, on being approached by the Bureau, insisted that the distance was far more.
>
> The Bureau investigator visited the complainant, explained about the new radar machines, and discussed the relevant sections of the Highway Traffic Act and the Motor Vehicle Accident Claims Act. The complainant agreed that he would be willing to informally resolve the complaint if the complete circumstances of the complaint were brought to the attention of the officer's Unit Commander. The Bureau investigator did this, and both complainant and officer signed an Informal Resolution.

In 13 of the cases (6.1%) the complainant acknowledged that he may have been mistaken regarding the allegation of misconduct. An example of this is as follows:

> The complainant was the owner of a trucking company. At 5:00 p.m. on a winter afternoon he had a call from one of his drivers informing him that the truck he was driving had broken down on the highway. The complainant immediately called a towing company and the company informed him that they would pick the truck up shortly. A little later, the complainant received a call from the police force informing him that his truck had broken down. The complainant advised the officer that a tow truck was on

the way. Shortly after 6:00 p.m. he got a call from the tow truck driver saying that he could not find the truck. The complainant suspected that as soon as his driver had left the scene, the officer involved had called another tow truck company and had the truck towed to the pound.

The Public Complaints Investigation Bureau interviewed the officer, who stated that he had come across the disabled truck at about 4:30 p.m. The driver told him that the brakes had failed. The truck was off the road as far as the driver could get it, but it still protruded about 1.5 metres into the roadway. The officer positioned his car a short distance behind the truck and activated his emergency signals as the truck was parked in a hazardous position. The truck driver waited with the police officer for the tow truck to arrive, but at about 5:00 p.m. another truck from the same company came by and the driver stopped. The truck driver asked the officer if he could leave as he had an engagement that evening. Believing that the tow truck would be there shortly, the officer agreed to remain at the scene alone. At about 5:15 p.m. he contacted the police station and asked the station operator to call the truck company and see how long their tow truck was going to be. He was advised that the tow truck was on its way, but was given no time of arrival. At 5:30 p.m. the tow truck had still not arrived. The officer called back to the police station and another tow truck was ordered. The other tow truck arrived on the scene at 5:50 p.m. and the truck was towed. At 6:10 p.m. the officer phoned the company to inform the complainant of the location of his truck, but received no reply.

The Bureau investigator accompanied the police officer to the site at which the truck had been stopped to check the location. The investigator verified that any truck stopped in this location would extend at least three feet into the roadway.

> The investigator asked the complainant if he would be willing to resolve the complaint informally. The complainant was informed about the officer's actions during the incident, and agreed that the officer had acted properly and with a good deal of consideration under the circumstances.

In 8 of the cases (3.7%) the record of informal resolutions indicated that the officer was spoken to or advised by his superior. An example of this is as follows:

> The complainant was driving into a shopping centre parking lot when he was struck by another vehicle. The accident was investigated by an officer and the complainant was charged under the Highway Traffic Act. The complainant alleged that the officer did not investigate the accident properly and charged the wrong person.
>
> The Public Complaints Investigation Bureau obtained information from the officer, attended at the scene of the accident, and spoke to the other motorist who had been involved in the accident. The Bureau investigator also spoke to a Justice of the Peace in regard to the interpretation of the section of the Highway Traffic Act under which the complainant had been charged. The investigator concluded, as a result of this discussion, that the complainant had been wrongly charged, as that particular section of the Highway Traffic Act dealt with the movement of vehicles on a roadway rather than in a parking lot.
>
> When the Bureau investigator got in touch with the complainant, the complainant stated that he did not wish to get the officer in trouble. The Bureau investigator informed the complainant that the subject officer would be instructed to take more care in the investigation of motor vehicle accidents. The complainant stated that he was satisfied with the investigation and wished no further action taken against the officer.

In one case (0.5%) the record of informal resolutions indicated that the officer was counselled and/or cautioned. In another case (0.5%) where no independent evidence was available, the complainant was satisfied to resolve the complaint informally.

In 1983, there was only one case where lack of independent evidence was noted as the reason for the informal resolution of a complaint. Last year there was a considerably higher number of cases (12) in this category. As a result of a number of discussions with the Bureau, it was generally agreed that the lack of independent evidence was not, of itself, a sufficient reason to resolve the complaint informally. It is not the function of the investigator to draw such conclusions. This is an adjudicative function which must be performed by the Chief or his designate after a review of the complete investigation.

Finally, there were ten cases (4.7%) where the reason for agreement to an informal resolution could not be determined. The complainant may have been satisfied to bring the matter to the attention of the police force. Conversely, it is possible that the complainant was simply not interested in pursuing the matter through the formal stages and, therefore, was satisfied with an informal resolution.

The Commissioner takes the view that the reason for an informal resolution must be clearly indicated on the Record. The number of informal resolutions in this category had decreased significantly from 29.9% in year one to 4.7% in the present year.

5. Withdrawals

102 or 13.5% of the complaints were withdrawn by the complainant.

An analysis of the withdrawals indicates that 55.9% of these complainants were filed at a police station, 25.5% at the Bureau and 18.6% with the Office of the Public Complaints Commissioner.

28.4% of the withdrawals were attributed to an admission of error on the part of the complainant. This is usually explained by the complainant being so intoxicated at the time that a clear recollection of events was impossible. In another 26.5% of the cases, the reasons for withdrawal were not known. 13.7% of the complainants who withdrew their complaint stated their desire to merely call attention to the incident or put it on the record rather than follow through with an investigation. 9.8% of the complainants withdrew their complaints on the advice of their counsel, and another 6.9% withdrew their complaints stating all their concerns or allegations had been dealt with in court. The remaining cases (14.7%) were withdrawn for miscellaneous reasons.

32.4% of the complainants who withdrew their complaints retained lawyers. It is known that the withdrawal of some complaints was connected to the plea bargaining process. Although some such cases have come to the P.C.C.'s attention, the actual frequency of this occurrence cannot be ascertained by statistics, since this information is not available.

6. Dispositions by Chief of Police for Officers Involved in Complaints

24.5% of the police officers involved in complaints entered into informal resolutions. The remaining 75.5% of the officers were subject to a complete investigation followed by a decision of the Chief (formal resolution).

There was a finding of "no action warranted" for 71.4% of the officers. The reasons for the Chief not taking action are set out in Table 15. 3.4% of the officers were either spoken to, advised, counselled and/or cautioned by their superiors as a result of the complaint, while another 1.3% were disciplined under the Police Act and the remaining 0.4% charged with a criminal offence under the Criminal Code. These data may be found in Table 21.

F. COMPLETED REVIEWS BY THE PUBLIC COMPLAINTS COMMISSIONER

A far greater number of reviews were completed in 1983 than in the previous year -- four times as many. There were 69 reviews completed* in 1983, comprising 9.1% of all the closed complaints.

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* A "completed review" means a review of a case that was closed in the reporting year. Where the P.C.C. reviews a case and orders a Board hearing, the case is not closed until the hearing has ended. Therefore, in this reporting year, for example, there were 5 reviews where the P.C.C. ordered a Board hearing that was pending at the year-end. Accordingly, these 5 cases are not part of the 69 cases referred to above.

TABLE 21

DISPOSITIONS BY CHIEF OF POLICE
FOR OFFICERS INVOLVED IN COMPLAINTS

	1982		1983	
	No.	%	No.	%
FORMAL RESOLUTION				
NO ACTION WARRANTED	592	65.3	758	71.4
OFFICER COUNSELLED AND/OR CAUTIONED	19	2.1	25	2.4
POLICE ACT CHARGES	0	0.0	14	1.3
CRIMINAL CHARGES	0	0.0	4	0.4
TOTAL FORMAL RESOLUTIONS	611	67.4	801	75.5
INFORMAL RESOLUTION				
INFORMAL RESOLUTION	255	28.2	250	23.5
INFORMAL RESOLUTION & OFFICER ADVISED/SPOKEN TO	33	3.6	10	0.9
INFORMAL RESOLUTION & OFFICER COUNSELLED AND/OR CAUTIONED	6	0.7	1	0.1
TOTAL INFORMAL RESOLUTIONS	294	32.5	261	24.5
OTHER	1	0.1	0	0.0
TOTAL DISPOSITIONS FOR POLICE OFFICERS	906	100.0	1062	100.0

The Commissioner decided that no further action was warranted in 44, or 63.8% of those cases in which reviews were completed. 8, or 11.6% of the cases were withdrawn, while the Commissioner resolved the matter informally in another 7 (10.1%) cases. Of the 44 cases in which no further action was felt to be warranted, the Commissioner agreed completely with the Chief's decision in 35, or 50% of these cases and agreed in part with the Chief's decision in 9, or 13% of the cases. In another 5 or 7.3% of the reviews, the Commissioner substantially agreed with the complainant but did not feel that it was in the public interest to order a Police Complaint's Board Hearing.

In all cases in which a Police Complaint Board hearing was not ordered, a review report was written by the Commissioner. An example of a review report may be found in Appendix III.

G. BOARD HEARINGS ORDERED BY PUBLIC COMPLAINTS COMMISSIONER

In five or 7.2% of the review cases, the Commissioner ordered a Police Complaint's Board Hearing, the hearing was held, and a decision was reached. All but one hearing were three-person board hearings. These data may be found in Table 22.

Excluding those cases which were withdrawn and those cases in which informal resolutions were achieved, there were 54 cases which could ultimately have led to Police Complaint Board Hearings. The number of Board Hearings that were ordered (5) as a function of the number of cases that could have led to such hearings (54) was just under 10% (9.3%). Thus, Board Hearings were ordered by

TABLE 22

OUTCOME OF REVIEW OF COMPLAINT BY PUBLIC COMPLAINTS COMMISSIONER

	1982		1983	
	No.	%	No.	%
NO ACTION WARRANTED	13	76.5	44	63.8
CASE WITHDRAWN	2	11.8	8	11.6
INFORMAL RESOLUTION	1	5.9	7	10.1
NOT IN PUBLIC INTEREST TO CONVENE BOARD HEARING	1	5.9	5	7.3
THREE PERSON BOARD	0	0.0	4	5.8
ONE PERSON BOARD	0	0.0	1	1.4
TOTAL CASES	17	100.0	69	100.0

the Commissioner in roughly one out of every ten cases in which the complainant requested a review (excluding withdrawals and informal resolutions).

Between December 21, 1982 and December 20, 1983 there were a total of 5 other cases where, following a review, the Commissioner ordered a Police Complaints Board hearing. These cases are not part of this year's data base, as the Board hearings were not completed by December 20, 1983 and, accordingly, the files were not closed.

Similarly, from December 21, 1983 to the time of the writing of this report (June 1, 1984), the P.C.C. had ordered 4 Board hearings (the Chief's designate also ordered 2 additional Board hearings in this period of time).

H. LENGTH OF TIME BETWEEN VARIOUS STAGES IN THE COMPLAINTS PROCESS

1. Time from Date Complaint Filed to Date Copy Received by P.C.C.

The number of days from the date a complaint was filed at the Bureau or a police station to the date the P.C.C. received a copy of the complaint was recorded. In 26.3% of the cases a copy of the complaint was received at the P.C.C. Office on the same day it was filed. Another 41.8% were received within one or two days of filing, while 22.9% were received within three or four days. In total, copies of the vast majority of complaint forms (98.7%) were received within one week of filing. The average number of days from the date of filing to the date a copy of the complaint was received at the P.C.C. Office was 2.2 days. The full list of days may be found in Table 23.

Pursuant to s. 6(3) of the Act, where a complaint is recorded at a police station, the person recording the complaint must immediately forward a copy of the complaint to the Bureau and to the P.C.C. In one case, the P.C.C. did not receive a copy of the complaint until 65 days after the complaint was reported. This lapse is explained by the fact that the complaint, which was received at a police station, was of a minor nature, and the sergeant at the station decided to resolve the matter informally. The Form 1 was sent to the P.C.C. along with the completed Record of Informal Resolution.

2. Time from Complaint Filing to Interim Report

An interim report on the investigation of each complaint must be completed by the Public Complaints Investigation Bureau of the Police Force, and forwarded to the complainant, the subject officer, and the P.C.C. within 30 days of the Bureau's receipt of the complaint. In a number of cases, the entire investigation was completed within the 30-day period. No interim report was required since the final report served the same purpose. For those cases in which an interim report was completed (507), the average number of days from the date a complaint was filed to the date of the interim report was 31.3 days. Thus, the processing of a complaint by the police with respect to the completion of an interim report was generally very close to the prescribed period. These data may be found in Table 24.

TABLE 23

TIME FROM DATE COMPLAINT FILED TO DATE COPY RECEIVED BY P.C.C.

	No.	%
SAME DAY	193	26.3
1-2 DAYS	307	41.8
3-4 DAYS	168	22.9
5-7 DAYS	57	7.7
8-15 DAYS	7	0.9
19-24 DAYS	2	0.3
65 DAYS	1	0.1
TOTAL CASES	735	100.0

$\overline{X}$ DAYS = 2.2

TABLE 24

TIME FROM COMPLAINT FILING TO INTERIM REPORT

	No.	%
6-21 DAYS	5	1.0
22-30 DAYS	222	43.8
31-40 DAYS	265	52.3
41-54 DAYS	15	2.9
TOTAL CASES	507	100.0

$\overline{X}$ DAYS = 31.3

In only 15 or 2.9% of the cases were there significant delays between the filing of a complaint and the filing of the first interim report by the Bureau. The cases that exceeded the 30 day period were cases where the complaint originated outside the Bureau and time was spent in transmitting the complaint.

3. Time from Complaint Filing to Final Report and Chief's Decision

The total number of days from the date a complaint was filed to the date of the final report* concerning the outcome of that complaint was also recorded. In 0.4% of the cases, the final report was completed on the same day as the day the complaint was filed. This occurred in cases where an informal resolution was achieved immediately at the time the complaint was filed. In 28.4% of the cases, a final report was completed within 30 days of the date of filing. Another 28.1% of the cases were completed with a final report produced within 60 days of filing. Thus, in well over half of the cases (56.5%) a final report was produced within two months of filing. In roughly three quarters of the cases (73.7%) a final report was completed within 90 days of filing. The average number of days from the date a complaint was filed to the date a final report was completed was 75.5 days. These data may be found in Table 25.

The number of days from the final report to the date of the Chief's decision averaged 27.2 days. In 22.6% of

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* "Final report" in this section refers to either a final investigative report of the Bureau or the Record of Informal Resolution.

TABLE 25

TIME FROM COMPLAINT FILING TO FINAL REPORT

	No.	%
SAME DAY	3	0.4
1-14 DAYS	63	8.3
15-30 DAYS	149	19.7
31-60 DAYS	213	28.1
61-90 DAYS	130	17.2
91-226 DAYS	164	21.7
227-359 DAYS	35	4.6
TOTAL CASES	757	100.0

$\overline{X}$ DAYS = 75.5

the cases, the Chief's decision came one week after the final report. In over two-thirds of the cases (67.5%) the Chief's decision was formulated within 30 days of the final report. These data may be found in Table 26.

The total number of days from the above-noted two periods -- from the date the complaint was filed to the date of the Chief's decision, averaged 129.4 days.

4. Time from Chief's Decision to Request for Review

Any complainant has the right to to request a review of the Chief's decision by the P.C.C. The average number of days from the date of the Chief's decision to the date of a request for review was 38.6 days. The number of days ranged from 2 days in one case to a maximum of 274 days in another case. In roughly 60.0% of the cases (59.3%), requests for review were made within 30 days of the Chief's decision. These data may be found in Table 27.

5. Time from Request for Review to Decision by Public Complaints Commissioner

The time involved from the date of a complainant's request for review to the date of the decision by the Public Complaints Commissioner averaged 147.1 days. 16.0% of the cases were completed within two months of the request for review while another 43.5% were completed within five months of the request. The remaining 40.5% of the cases required more than five months to complete. These data may be found in Table 28.

TABLE 26

TIME FROM FINAL REPORT TO CHIEF'S DECISION

	No.	%
1-7 DAYS	99	22.6
8-21 DAYS	140	31.9
22-30 DAYS	57	13.0
31-60 DAYS	106	24.1
61-90 DAYS	9	2.0
OVER 90 DAYS	28	6.4
TOTAL CASES	439	100.0

$\overline{X}$ DAYS = 27.2

TABLE 27

TIME FROM CHIEF'S DECISION TO REQUEST FOR REVIEW

	No.	%
2-7 DAYS	19	27.5
8-14 DAYS	11	15.9
15-30 DAYS	11	15.9
31-60 DAYS	15	21.7
61-90 DAYS	6	8.7
OVER 90 DAYS	7	10.3
TOTAL CASES	69	100.0

$\overline{X}$ DAYS = 38.6

TABLE 28

TIME FROM REQUEST FOR REVIEW TO P.C.C. DECISION

	No.	%
12 DAYS	1	1.5
31-60 DAYS	10	14.5
61-90 DAYS	12	17.4
91-120 DAYS	10	14.5
121-150 DAYS	8	11.6
151-180 DAYS	7	10.2
181-210 DAYS	8	11.6
OVER 210 DAYS	13	18.7
TOTAL CASES	69	100.0

$\overline{X}$ DAYS = 147.1

The 147.1 day average is a matter of some concern. It is true that a good review, which may include interviews with witnesses, analysis of forensic evidence and research into legal issues, takes time. Further, the course of a review may be prolonged by any number of factors, from the unavailability of witnessess to the fact that a trial in progress may provide additional information and must be monitored.

Other factors that account in part for the length of time it takes to complete a review have been isolated. One factor, for example, was the completion of the lengthy Hold-Up Squad report. Another is the fact that the number of complainants choosing to lay complaints at the P.C.C. office, and thus requiring lengthy intake interviews, has increased (20% in year 1; 24.8% in year 2 and 40.7% in the first quarter of the third year). Both of these factors have strained existing resources, leading to delays in completing reviews. However, at the present time, there is no backlog and all of our cases are current.

The Commissioner feels that 90 days is a more reasonable maximum time for the completion of a review, and efforts are being made to decrease the average length of a review to not more than 90 days.

I. OTHER CONTACTS WITH THE P.C.C.

During this year, in addition to the formal complaints lodged, there were an additional 331 recorded contacts made with the P.C.C. office by 291 people, concerning inquiries which, although they did not develop into complaints, took a substantial amount of time to resolve.

Of these 331 contacts, 68% were made by telephone, 12.4% were made by letter, while 19.6% appeared in person. It is estimated that each of these initial inquiries required approximately 30 minutes of an investigator's time to resolve in addition to any subsequent time spent on follow-up.

Of the 291 people who made enquiries to the P.C.C. office during this period, 39 or 13.4% were referred in various ways, including referrals from government agencies, lawyers, or aldermen.

In 78.5% of these contacts, people, inquired about specific incidents and wished to know whether or not they had a complaint within the P.C.C.'s jurisdiction. 11.2% of the contacts were requests for information about either the P.C.C. or the procedures set out in the legislation. 10.3% requested assistance in contacting members of the police force. The majority of these contacts involved some form of follow-up activity by the P.C.C. 253 additional telephone calls were made by investigators to aid in the resolution of these inquiries. 71 letters were written for the same purpose and 39 individuals interviewed. In 16 cases a subsequent follow-up appointment was made. In 4 of these cases the person inquiring attended this follow-up interview, while in 12 cases they did not.

110 or 33.2% of the contacts were made by people who wanted to lodge a complaint about a police officer on a police force other than the Metro Toronto Police. These complaints were not within the P.C.C.'s jurisdiction and were referred to the proper agencies.

In addition, various people were referred to the Metropolitan Toronto Police Force, the Law Society, municipal police authorities, Chiefs of Police in other jurisdictions, the Attorney General, the Ombudsman, the Ministry of Consumer & Commercial Relations, the Ministry of Labour and various Alderpersons.

PART IV - POLICE COMPLAINTS BOARD

A. BACKGROUND AND MEMBERS

The Police Complaints Board consists of 24 civilian members, all of whom are appointed by the Lieutenant Governc in Council. One-third of the members are recommended for appointment by the Attorney General; one-third of the members are recommended for appointment by Metro Council and the remaining one-third of the members are recommended jointly by the Metropolitan Toronto Board of Commissioners of Police and the Metropolitan Toronto Police Association. Most of the present members were appointed on June 16, 1982. Board members include respected judges, lawyers, religious and labour leaders, teachers and business people, with a variety of cultural and racial backgrounds.

During 1983 the resignation from the Board of Vibert A. Lampkin and Daniel G. Hill was regretfully accepted. Both Board members resigned due to the press of new duties; Mr. Lampkin as a Provincial Court Judge and Dr. Hill as the newly appointed Ombudsman of Ontario.

On February 24, 1984, the Attorney General announced the appointed of Edsworth M. Searles, a lawyer, as a member of the Police Complaints Board.

A brief resumé for each of the Board members follows:

Anne Barrett - Born and raised in Toronto. Graduated in 1963 with a Bachelor of Arts from York University and from Osgoode Hall Law School in 1974. Called to the Bar in 1976. Before beginning her legal career, was employed as an advertising copy writer and an occasional teacher of English in Toronto secondary schools. Since 1976 has practiced criminal and family law. Since 1977 employed on a periodic basis as a fact-finder, mediator and arbitrator by the Education Relations Commission.

Brian A. Grosman, Q.C. - Born in Toronto. Graduated from University of Toronto with a B.A. and LL.B. and subsequently LL.M. from McGill University. Called to Bar of Ontario in 1961 and appointed Queen's Counsel in 1980. Practiced law in Toronto and Ottawa as a defence counsel and part-time prosecutor before joining the Faculty of Law at McGill University in 1965 where he taught criminal law, evidence, the administration of criminal justice and criminology. Appointed Professor of Law, University of Saskatchewan in 1971 and in 1974 appointed founding Chairman of the Law Reform Commission of Saskatchewan. Returned to practice of law in Toronto in 1979. The author of The Prosecutor: An Inquiry into the Exercise of Discretion: Police Command, Decisions and Discretions: New Directions in Sentencing and The Executive Firing Line: Wrongful Dismissal and the Law. Member of the Advocates' Society, the Advisory Council of the Human Rights Foundation of Canada and the editorial board of the Conflict Quarterly.

Stanley M. Makuch - Associate Dean, Faculty of Law, University of Toronto. Associate Professor of Law and Urban Planning, University of Toronto. Graduated in 1967 from University of Toronto with an Honours B.A. in History, an M.A. in History from Carleton University in 1968, an LL.B. from Osgoode Hall Law School in 1971 and an LL.M. in 1972 from Harvard Law School (specializing in local government and urban studies). Written widely on provincial and municipal legal and planning issues. Member of the Toronto Planning Board, 1977 to 1979 and Chairman of the Board's task force on planning in the 1980's. Research report on freedom of information in local government for Commission on Freedom of Information and Individual Privacy.

Dennis R. O'Connor, Q.C. - Graduated from Osgoode Hall Law School in 1964. Called to the Bar in 1966. Practiced law in Toronto from 1966-1973 when appointed a Magistrate for the Yukon Territory. From 1974 to 1976 a professor, Faculty of Law, University of Western Ontario. Appointed Queen's Counsel in 1980. Counsel with the firm of Borden & Elliot and Chief Negotiator for Government of Canada on the Yukon Indian Land Claim.

Edsworth M. Searles, Q.C. - Born in Toronto. Reared in Barbados where he attended elementary and secondary school. In 1945, he returned to Canada and completed studies at the University of Toronto. Called to the Bar in 1959, he is a founding member and the first president of the Rogest Delos Davis Law Association, the first black law association in Ontario. He is a former president of the Home Service Association and of the Universal Negro Improvement Association.

Roop Narine Sharma - Educated in England and at the University of Windsor, Faculty of Law. Legal Advisor and from 1968-1970, Crown Attorney, Government of Guyana. In private practice in east Toronto since 1977. President of Canada Hindu Organization, member of Board of Directors of Ward 7 News, member of Riverdale Inter-Cultural Committee, advisory member, South Asian Community Organization.

Judge Pamela A. Sigurdson - A Judge of the Provincial Court (Civil Division) since April, 1981. Graduate of Queen's University and of the University of Toronto Law School. Called to the Ontario Bar in 1968 and practiced law in Toronto until May, 1971 when she and her family moved to Montreal. Judge Sigurdson, who is bilingual, was called to the Bar of Quebec in 1972. While in Montreal, she was Executive Director and Counsel for the Centre for Public Interest Law. Practicing law in Toronto since 1974. Author of Small Claims Courts and Consumer Access to Justice. A member of the 1976 Consumer

Research Council of Canada and the Canadian Environmental Law Association. Former member of the Advertising Standard Council's Committee on Children's Advertising and a Director of the Canadian Broadcast League.

John Sopinka, Q.C. - Graduated from the University of Toronto in 1955, from University of Toronto Law School in 1958. Called to the Bar in 1960. Appointed Queen's Counsel in 1975. Member of the University of Toronto Blues football team (1954 Inter-Collegiate champions) and half-back with the Toronto Argonauts from 1955-1958. Member of the Advocates' Society, Canadian Bar Association, the Lawyers' Club, County of York Law Association and the Association of Trial Lawyers of America. Member of Board of Education for the Town of Oakville, 1967-1969. Founding Director of the Oakville Chapter of the Canadian Save the Children Fund. Founding Director of Kelso Music Centre. Member of the Executive of the Etobicoke Philharmonic Society. Acted in the following Commissions: Commission of Inquiry into the Coroner's Office of the Municipality of Metropolitan Toronto, Commission of Inquiry into Allegations against the Provincial Police of Ontario, Commission of Inquiry - The Royal Canadian Mounted Police Relationship with Department of National Revenue - Taxation, Chief Counsel, Commission of Inquiry on Aviation Safety.

David B. Archer - Past President, Ontario Federation of Labour. Past President of Textile Workers' Union, Local 1 and of the Toronto and Lakeshore Labour Council. Past vice-president of Canadian Labour Congress. Member of Ontario Labour Relations Board since 1948. Member of Board of Governors, York University. Has been associated with Toronto Symphony, United Appeal, Toronto Arts Foundation, St. John's Ambulance and the Housing Authority of Toronto.

Mary Louise Clements - Vice President, Institute of Donations and Public Affairs Research. Graduated from University of

Toronto with a B.A. in 1953. Past President, Children's Aid Society of Metropolitan Toronto. Member Board of Trustees of the United Way of Greater Toronto. Past President of the Junior League of Toronto. Founding member of Urban Alliance on Race Relations.

William Crothers - A Pharmacist. Placed second in the 800 metre race in the 1964 Olympics. Still holds record for the Canadian 880 yards and 800 metres. Graduated from the University of Toronto in 1963 with B.Sc. in pharmacy. Owns and operates a pharmacy in Markham. Member of Board of Directors of Children's Aid Society of York Region and former member of Participation House Markham.

Rabbi David A. Monson - Served as Rabbi of Shaarei Shomayim Congregation in Toronto from 1939 to 1943. Chaplain with the Canadian Army overseas from 1943 to 1945. In 1946 founded Beth Sholom Synagogue and serves as its Rabbi. Executive member of Junior Achievement of Canada, St. Alban's Boys and Girls Club, Speech Foundation of Ontario, Canadian Red Cross, Toronto Branch, Amyotrophic Lateral Sclerosis Society of Canada, The Winona Project of the Co-operative Housing Federation of Toronto, Inc. Member of Mount Sinai Masonic Lodge, The Royal Commonwealth Society, The Monarchist League of Canada, Toronto Lodge of B'nai B'rith, The Empire Club, The Canadian Club, Canadian Zionist Federation of Canada, Barband Labour Zionist Organization, The Association of World War II Chaplains of the U.S. and Canada, the Rabbinical Association of the U.S. and Canada.

William J. Popowich - A real estate appraiser and consultant. Served as Executive Committee Member on various social, religious and political organizations within the Ukrainian Community of Toronto, including as President of the Ukrainian Catholic Religion and Culture Society (Etobicoke). Grand Knight, Knights of Columbus, Shyptytsky Council 5079. Director of St. Demetrius Church Committee and Cultural Society. Served as President of St. Demetrius Church Committee and Cultural Society. Member of the Etobicoke Planning Board since 1977 and Chairman in 1980-81. Member of the Board of Trade, Empire Club, American Right-of-Way Association, Knights of Columbus, Alpha Appraisal Association, St. Demetrius Ukrainian Catholic Religion and Culture Society, St. Demetrius Choral Society.

Rev. Robert L. Rumball - Graduated from the University of Toronto in 1952 and from Northern Baptist Seminary, Chicago, 1955. Received a D.D. degree in 1969 from Victoria University and an LL.D. from the University of Toronto in 1973. Executive Director of the Mission of the Deaf which operates the Ontario Community Centre for the Deaf and other facilities. In the 1950's played four years with the Ottawa Rough Riders and the Toronto Argonauts. In 1976 became a member of the Order of Canada. In 1978 given the Lion's Club International Humanitarian Award. In 1980 awarded the Paul Harris Fellowship by the Rotary Club. In 1982 awarded the Order of Merit by the City of Toronto.

Shamsher Singh - Involved with international consulting and trading industry. Former Executive Director of Intertask Limited, Ottawa and former economic counsellor to High Commission of India, Ottawa. Graduated in 1955 with Master of Arts (Economics) from University of Agra. Member of Rotary Club and Canadian Club.

James G. Westaway - Since 1980, President of Barbecon Inc., envelope manufacturers, fine paper merchants and office products dealer. Graduated from the University of Western Ontario, School of Business Administration, Honours B.A. Held various positions with Mercantile Bank of Canada and First National City Bank of Toronto; Port-of-Spain, Trinidad and Bridgetown, Barbados, 1965-72; Canadian Manager, Citicorp Leasing International, Toronto, 1972; President, Toronto-Dominion Leasing Ltd., Toronto, 1973; Executive Vice-President, Barber-Ellis, Toronto, 1974; Member of numerous clubs and associations including Envelope Makers Institute of Canada; Canadian Paper Trade Association, Board of Trade of Metropolitan Toronto; Past Chairman of the Board, Y.M.C.A. of Metropolitan Toronto; Board and Executive Committee, National Council of Y.M.C.A.s of Canada; Past Chairman of Financial Development Committee Y.M.C.A.

Arthur L. Cole - Began a 40 year career in journalism while attending school in Belleville. Joined the Toronto Telegram in 1939. After war service in the Army he returned to Canada with the rank of Captain and in 1946 started as a reporter with the Globe and Mail. Returned to the Telegram in 1954 as City Editor, a post held until 1967 when he became United Nations correspondent for the paper. In 1968 became News Director of CFRB and four years later was named Director of Community Relations for the station, from which he recently retired. A Director of the Ontario Educational Communications Authority, Permanent Chairman of the Canadian News Hall of Fame, member of National Public Relations Advisory Committee, The Salvation Army, the Board of Trade, Toronto Press Club, and member of Advisory Committee, School of Journalism, Ryerson Polytechnical Institute.

Jay Hong - A metallurgical engineer. Graduated with B.Sc. degree from Inha Institute of Technology in Korea and with an M.Sc. degree from the University of Toronto. Chairman of the Board of Toronto Korean Bible Institute. Director of Toronto Korean Church T.V. Mission Programme. President of Mac's Franchise Dealers Association. Spokesman for Becker's Franchise Dealers Association. Representative Elder of Toronto Korean Presbyterian Church to Presbyterian Church of Canada.

Birthe Jorgensen - Criminologist and homemaker. Graduated from the University of Toronto with a B.A. in 1973 and studied at

Faculty of Law, University of Toronto. Received M.A. at the University of Toronto, Centre of Criminology in 1976. In January, 1979 began Ph.D. studies at the Institute of Criminology, University of Cambridge, England.

Herbert S. Levy - A former Judge of the Court of Canadian Citizenship. Former executive vice-president of Canadian B'nai B'rith. Ontario Commander of the Jewish War Veterans of Canada and Anti-Defamation League Commissioner for Canada. A former radio news commentator.

Kart Derrick McLennon - Training officer with Community Guardian Co. Ltd., which serves public housing projects. Previously a detective with the Jamaican Police Department. Graduated from Seneca College with social services diploma in 1977. Recently completed Human Resources Management course, Seneca College. Enrolled in Atkinson College, York University political science program. President of Tropicana Community Services Organization of Scarborough, Advisory Board Member, Scarborough Youth Services. Director of Social Planning Council of Scarborough

Clement W. Nusca - Part-time member, Ministry of Correctional Services, Ontario Parole Board. Formerly in the insurance industry. Speaks French and Italian. Director and President of Canadian-Italian Business and Professional Men's Association. Formerly with Italian Federal Police and Interpol.

John F. Santos - Immigration Delegate with the Portuguese Consulate in Toronto. Former Real Estate Broker. Former president of First Portuguese Canadian Club. Member of Canadian Consultative Council on Multiculturalism. Founder and Director of the Federation of Portuguese Canadian Business and Professionals of Toronto. Vice-President of National Soccer League and Chairman of its discipline committee.

B. BOARD HEARINGS

As of December 21, 1983, there had been six completed Board hearings. Five hearings were ordered by the Commissioner on the basis of complaints which came to the P.C.C. for review. One was an appeal by an officer of his conviction in an internal police inquiry conducted as a result of charges under the Police Act.

Hearings are held in a Royal Commission hearing room and are similar to other administrative or quasi-judicial proceedings. The Statutory Powers Procedure Act and the rules of natural justice apply, and all hearings are open to the public.

The following is a summary of the six decisions by the Police Complaints Board.

1. Re Janes and Lambert - January 4, 1983.

(Grosman, Nusca, Rumball)

Complainant was a juvenile living in a group home operated by the Children's Aid Society. The night the incident occurred a worker at the group home reported to the police that the juvenile was missing. He was out past his 10:00 p.m. curfew and on this night was not allowed to be out at all.

Two officers arrived at the group home, were advised of the facts and left. At approximately 1:30 a.m. the officers were asked to return as the complainant had returned. The juvenile complained that one of the officers took him outside and demanded to know where he had been. He refused to tell the officer, and he alleged that he was then "smacked" twice by the officer, threatened, grabbed by the hair and hit in the face with a closed fist.

The complainant also stated that the officers threatened to come back and beat him up if the staff at the group home could not control him.

The officer testified that he believed the youth was out with a 32 year old man who had been released from jail. He was also told that the staff of the group home were concerned about the complainant's whereabouts and that the complainant was very uncooperative. The officer also thought that the complainant's refusal to cooperate was an effort to impress the staff of the group home. The officer admitted taking the complainant outside for this reason. He testified that when they were outside, the complainant swore at him and continued to refuse to divulge his whereabouts. The officer admitted raising his voice and demanding to know where the complainant had been. He testified that the complainant swore at him and made a quick move toward the stairs. The officer grabbed the complainant by the jacket and the complainant slipped and fell. The officer testified that he helped the complainant up and took him back inside. He stated that at no time did he strike or threaten to strike the complainant.

The officer's partner, who remained inside the house at all times, corroborated this testimony insofar as what happened inside the house. He also testified that the complainant did not complain about being assaulted or threatened when he returned to the house.

Both the subject officer and the complainant were represented by counsel. Counsel for the Board called the various witnesses and examined them. Counsel for the complainant and subject officer each cross-examined the witnesses and had an opportunity to call additional evidence. Submissions were then made to the Board. After considering the evidence and the submissions, the Board dismissed the complaint. It found that the only independent evidence was that of case workers in the group home, and that the only direct evidence they had to give was what they observed in the house. They did not observe the specific incident in question. The Board found the evidence of the complainant to be not sufficiently reliable to sustain the complaint.

2. Re Tennyson and Wark - March 23, 1983.
(Barrett, Archer, McLennon)

The complainant stated that on an evening in March, 1982, he and a friend had consumed a couple of beers at a neighbourhood tavern. When they came out of the tavern, at approximately 1:05 a.m., they were in high spirits and were jogging, joking and larking about. Two uniformed police officers on routine foot patrol in the area observed them and allegedly called them an insulting name. The complainant and his friend retaliated verbally and the police then started to chase them. The complainant and his friend outpaced the officers, lost sight of them and assumed the chase was concluded. The complainant carried on at a walking pace.

The complainant further alleged that an unmarked police car which had been going north on the east side of the street cut over to the west side of the street and pulled up beside him facing the southbound traffic. The officer driving the car jumped out of the car, grabbed hold of the complainant, threw him against the car and banged his head three times on the trunk of the car. The complainant's front tooth was chipped and his lip was cut. The complainant claimed that the officer then twisted his arms around behind his back and handcuffed him tightly. He was taken to a police station and held there for about two and one-half hours before being charged with causing a disturbance.

Two police officers testified that they had observed the complainant and his friend laughing and joking and then yelling and screaming and jumping on lawns, kicking fences. They decided to arrest the pair for causing a disturbance. The officers denied that any insults were hurled, but said that they yelled "stop," at which point the complainant and his friend began to run away and the officers began to chase them. The officers radioed for a police vehicle and pointed out the complainant, who was about 100 yards down the street. The car pursued the complainant and pulled up beside him. One of the constables in the car stated that he showed his identification to the complainant, but that the complainant tried to escape. The officer stated that he grabbed the complainant's arm, at which point the complainant threw a punch which the officer ducked. The officer and his partner grabbed the complainant and forced him to the ground. They alleged that the injury to the complainant's tooth and lip occurred in the ensuing struggle when the complainant hit the sidewalk.

There was no independent evidence that exclusively supported either version of events. There were no independent witnesses and the doctor who treated the complainant stated that the injuries could have been caused either by a fall to the sidewalk or a banging on the trunk of a car.

The Board concluded that the evidence left it in some doubt, and that the benefit of that doubt belonged to the police officer. The complaint was dismissed.

3. MacFarlane and Cristiano - June 14, 1983.
(Sigurdson, Levy, Westaway)

The complainant, a cab driver, was stopped by a police officer for speeding. While he was talking to the police officer, the officer told him that he was also going to charge him with failing to have his identification photo card on display in the cab. The complainant told the officer that the photo was on display, however, the officer refused to come and look. The complainant went back to the cab, told the passenger what had happened and pointed out the photo card to her.

At the trial of the complainant for the two provincial offences, the officer testified that he checked in the cab for the photo identification and it was not there. However, the passenger in the cab testified that the identification card had been there.

The complainant filed a complaint with the P.C.C., and the Public Complaints Investigation Bureau of the police force reviewed the transcript of the trial evidence along with other evidence in the case. On reviewing the investigation file, the Chief of Police's designate decided that the officer would be charged under the Police Act. The officer was duly charged and was convicted under the Police Act. The penalty imposed was a demotion in rank. The officer appealed to the Police Complaints Board.

The Police Complaints Board heard evidence and the submissions of counsel. It also reviewed the transcript of the trial. The Board found that the complainant's evidence was credible and that the officer's evidence was inconsistent with the proven facts. The Board found that the officer had deceived the court and upheld the conviction. In regard to sentence, the Board stated that if the officer had been more senior, or had a more serious record of offences, it would have had no hesitation in ordering him dismissed. However, the Board took into account the youth and inexperience of the officer, his record of commendations, and the fact that previous infractions had been relatively minor and unrelated. The Board confirmed the sentence imposed at the hearing under the Police Act.

4. Re Tangredi and Boytchuk - August 3, 1983.
(Makuch)

The complainant alleged that a police officer had trespassed on his premises and assaulted him while using abusive language, and that the officer had warned the complainant that he should not complain.

The complainant testified that he was in the basement of his premises with a carpenter who was working for him when he heard someone upstairs call out his first name. He went up and found a police officer standing in the front lobby. The officer explained that he was there concerning a parking problem with a neighbour and indicated that the complainant had told someone to park in the neighbour's driveway. The complainant responded that he did not control parking and had not instructed anyone to park there. The officer's suggestion and the complainant's response were repeated two or three times at which point the officer allegedly grabbed the complainant by his shirt collar and pushed him against a wall six feet away. The complainant stated that he remained passive and the officer shouted insults at him. The complainant called out for the carpenter who came up the stairs. The complainant then asked the officer to leave, which he did only after being requested to leave two or three times. The complainant told the officer that he was going to report him, and the officer allegedly laughed and said it would not do any good.

The officer stated that he had been called to the premises in response to a complaint about a parking problem from a neighbour. He went into the lobby of the building and called the complainant's first name. The complainant came up and the officer stated that he told him there was a parking problem, that the driveway was a private one, that the neighbour was the owner of the driveway and that the complainant should not tell people to park there. The complainant responded that he did not control the parking and did not tell people to park there and the officer contradicted him. At this point the officer alleged that the complainant got very upset and yelled insults. The officer stated that the complainant had a hammer in his hand and that it appeared as though the complainant would hit him, since he was flailing his arms. The officer denied touching the complainant or using obscenities, although he admitted raising his hand when the complainant was about four feet from him because of his perception that the complainant might hit him with the hammer. He also admitted raising his voice.

The carpenter attended to give evidence before the Board. He stated that the complainant was very upset when he reached the top of the stairs, and that the complainant was gesticulating with his arms. He also stated that the complainant's shirt was more undone than it had been earlier, and that he could not recall the complainant having a hammer with him.

The Board noted that both the officer and the complainant appeared to be honest and sincere and seemed to be telling the truth to the best of their recollection. There was a discrepancy in the officer's testimony about the hammer, and a discrepancy in the complainant's testimony in regard to shouting. Since the carpenter had not appeared on the scene at the time when the alleged assault might have taken place, there was no independent evidence as to whether it had occurred.

In regard to the allegation of trespass, the Board concluded on the evidence that the lobby in question should be viewed as a public area, serving the premises of both the complainant and his neighbour. Thus the officer was not found to have been trespassing.

In regard to the specific allegations that the officer had assaulted the complainant, the Board found that there was not sufficient evidence to warrant a finding of misconduct.

In regard to the allegation that the officer had told the complainant not to complain, the Board was not assisted by any independent evidence, as the carpenter could not confirm or deny hearing this statement. The Board therefore found that there was insufficient evidence to make a finding of misconduct.

5. Re Noble and McKay - June 30, 1983.
   (Sopinka, Crothers, Santos)

6. Re Noble and McKay - June 30, 1983. (Sopinka, Crothers, Santos)

A married couple filed separate complaints in regard to the same incident. Their complaints were investigated separately and a Board was appointed in each case. By agreement between counsel for all parties, one hearing before the Board sufficed for both complaints.

The husband was driving his car, and his wife was a passenger when he was stopped for speeding. The husband was questioned in regard to his alcohol consumption and the officer who had stopped the car demanded a breath sample. The wife, who wished to be a witness to the proceedings, attempted to speak to her husband while he was in the police car. An argument ensued when the husband attempted to leave the police car. The husband alleged that he was beaten, punched and kicked at the scene and later at the police station. The wife alleged that she was assaulted at the scene.

The husband alleged that while he was in the police car, he was struck by the officer. Thereupon he tried to leave the police vehicle and in the course of doing so, dragged the officer out of the vehicle.

The officer alleged that, while the husband was taking the breathalyzer test, the wife attempted to intervene and the husband attempted to leave the police vehicle. The officer stated that he was struck by the husband and that the couple dragged him out of the car and onto the pavement. The officer called for assistance and in a few minutes a number of police cars arrived to assist him in subduing the complainants. The complainants were taken to a police station where the husband was charged with assault on a police officer among other charges. The wife was charged with obstructing a police officer in the execution of his duty. The officer filed an injured on duty report in which he alleged that he sustained a cut left ear, cut right cheek and bruised right knee. He also stated that his glasses were broken when he was dragged out of the police vehicle by the complainants.

After his release from the station, the husband attended at a hospital where injuries were recorded. He sustained lacerations on and around his ears, a bruise on the rear of the left arm, a bruise on the back of the left leg, an injury to the back of the right leg and bruises on the spinal column, face, chest, thigh, and ankles.

The wife later attended a doctor's office. The doctor's report noted that she had sustained some soft tissue injury to her back, and that it appeared that a piece of her hair had been pulled out.

The Board reached separate conclusions on the two complaints. In regard to the wife, the Board, on reviewing the evidence, found that she had intervened when her husband was in the police car, and had assisted her husband in his subsequent struggle with the officer. She was subsequently charged and convicted with obstructing a police officer, and the Board concluded that her injuries had resulted from her participation in the struggle. The wife's complaint was therefore dismissed.

In regard to the husband, the Board noted that he had been convicted of assaulting the officer as a result of the incident by the roadside. However, the Board heard considerable evidence as to the nature of the complainant's injuries as observed by the Sergeants on duty at the station when he was brought in. Both officers denied having seen significant injuries that were confirmed by a doctor after the complainant left the station. There was evidence given by another police officer that the subject officer had been alone in one of the rooms in the station with the complainant for six or seven minutes. The complainant's evidence was discrepent and unsatisfactory in some respects. However, the complainant's allegations as to being assaulted by the officer in the police station were supported by the nature of some of his injuries and by forensic evidence, including a forensic analysis, obtained by the P.C.C., that showed boot polish on his clothing. The Board concluded that the complainant's allegation of assault in the police station had been established.

After hearing submissions as to sentence, which included considerable evidence as to the officer's good character, the Board imposed a suspension without pay for two weeks.

The penalty imposed by the Board is being appealed by the complainant to the Supreme Court of Ontario. The finding of misconduct by the subject officer is also being appealed.

C. BOARD HEARINGS PENDING

Five of the seven Board hearings that were ordered by the Public Complaints Commissioner in 1983 were not completed in that year. As of June 1, 1984, six additional hearings had been ordered.

Decisions made by Boards in 1983-1984 will be summarized in the next Annual Report.

APPENDIX I

Ontario Regulation 854/81 (General)

EXTRACT FROM ONTARIO GAZETTE

THE METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

O. Reg. 854/81.
General.
Made—December 17th, 1981.
Filed—December 22nd, 1981.

REGULATION MADE UNDER THE METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

GENERAL

1.—(1) A complaint shall be recorded in Form 1.

(2) The statement to be furnished under subsection 6 (2) of the Act to the person making the complaint shall be in Form 2. O. Reg. 854/81, s. 1.

2. The record of an informal resolution of a complaint shall be in Form 3. O. Reg. 854/81, s. 2.

3. An interim or final investigation report shall be in Form 4. O. Reg. 854/81, s. 3.

4. An investigation under section 9 of the Act shall be pursued quickly and diligently and the investigator shall endeavour to obtain all information that may have a bearing on the complaint. O. Reg. 854/81, s. 4.

5. All information and evidence obtained in the investigation shall be recorded and preserved. O. Reg. 854/81, s. 5.

6. The investigator shall endeavour to interview the person making the complaint and the police officer concerned and to obtain written statements from them. O. Reg. 854/81, s. 6.

7. The investigator shall endeavour to interview the witnesses named by the person making the complaint and the police officer concerned and witnesses located as a result of the investigation and to obtain written statements from such witnesses. O. Reg. 854/81, s. 7.

8. The investigator shall endeavour to obtain photographs of all personal injuries or damage to property alleged and any other information and evidence that is relevant to the investigation and could only be preserved by way of photographs. O. Reg. 854/81, s. 8.

9. Where appropriate, the investigator shall attend at the scene of the alleged misconduct and obtain any relevant evidence. O. Reg. 854/81, s. 9.

10. The investigator shall endeavour to obtain all hospital records and medical reports related to the complaint. O. Reg. 854/81, s. 10.

11. The investigator shall make notes during or as soon as possible after completion of each investigative step and the notes shall be preserved. O. Reg. 854/81, s. 11.

12. Any information, notes or evidence, except physical evidence, that is required to be preserved under sections 5 and 11 shall be retained for a period of two years after the complaint is finally disposed of. O. Reg. 854/81, s. 12.

APPENDIX II(a)

THE METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

COMPLAINT

DATE and TIME REPORTED

Day	Month	Year	Time

№ 10916

COMPLAINANT

Surname	First Name	Initial(s)	Date of Birth	Sex	Marital status
Home address	Postal Code	Telephone No. - Residence	Business address	Postal Code	Telephone No. - Business
Date of incident	Time	Location			Division

DETAILS OF INCIDENT (must be typewritten or printed)

(SAMPLE)

Use reverse side if more space required

Details of injuries sustained				Photographs taken NO ☐ YES ☐
Attending Physician Name	Address	Telephone No.	Hospital attended	Date attended

WITNESS(ES)

Name	Address	Telephone No.
Did complainant require an interpreter? YES ☐ NO ☐ Language	Interpreter's name and address	Telephone No.

OFFICER(S) INVOLVED

Name and Rank	Number	Unit	Platoon

Form 2 given to complainant

☐ Yes ☐ No

If no, state reason:

COMPLAINT RECEIVED BY:

Name	Rank	Number	Unit

I CERTIFY THAT THE INFORMATION I HAVE GIVEN HEREIN IS TRUE

Signature of Complainant

DISTRIBUTION: Quadruplicate

WHITE: Public Complaints Investigation Bureau
BLUE: Public Complaints Commissioner
PINK: Unit Commander of officer(s) in allegation
YELLOW: S/Supt. (Supt) of officer(s) in allegation

PC N 0026 (3/83)

OVER

APPENDIX II(b) Form 2

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

POLICE COMPLAINT PROCEDURES AND RIGHTS OF A PERSON MAKING A COMPLAINT

To the Complainant:

This statement briefly sets out the procedures that will be followed upon receipt of your complaint against a member of The Metropolitan Toronto Police Force and your rights under the **Metropolitan Police Force Complaints Project Act, 1981.**

Who Sees Your Complaint

1. No matter where your complaint is recorded a copy of the complaint will be sent to the Public Complaints Commissioner and the Public Complaints Investigation Bureau (the Bureau) of the Metropolitan Toronto Police Force.
2. The police officer concerned will be informed of the substance of the complaint unless the investigation might be adversely affected if the police officer is so informed.

Informal Resolution

3. The person in charge of the Bureau will consider whether your complaint can be resolved informally and if this is possible he will attempt to do so, but only if he has your consent and the consent of the police officer concerned.
4. No complaint can be resolved informally unless both you and the police officer concerned agree in writing to the resolution.

Investigations and Reports

5. If the complaint is not resolved informally, the Bureau will investigate the complaint. The investigator will interview you, the police officer concerned and any other witnesses.
6. You will receive a report not later than thirty days after you make your complaint and on a monthly basis thereafter unless the investigation of the complaint might be adversely affected by a report or there are no new matters to report. The Public Complaints Commissioner will also receive these reports.
7. If at any time you are not satisfied with the manner in which your complaint is being handled you may contact the Office of the Public Complaints Commissioner, telephone: 963-1141
8. In certain situations the Public Complaints Commissioner may decide to do his own investigation before the Bureau completes its investigation.
9. When the Bureau investigation has been completed, a final report will be sent to you, the Public Complaints Commissioner, the chief of police and the police officer concerned.

PC 002 (rev. 06/82)

Decision of the Chief of Police

10. The chief of police or his designate will review all investigation reports and make one of the following decisions:
    - i. Order further investigation.
    - ii. Decide that no further action is warranted.
    - iii. Cause a charge to be laid against the police officer and refer the matter to the Crown Attorney for prosecution.
    - iv. Refer the matter to the Police Complaints Board for a hearing.
    - v. Cause disciplinary proceedings to be taken against the police officer under the **Police Act.**
    - vi. Counsel or caution the police officer regarding his conduct.
11. You will be informed in writing of the decision made by the chief of police.

Review By Public Complaints Commissioner

12. If you are not satisfied with any of the following decisions you may request the Public Complaints Commissioner to review the matter:
    - i. The decision of the chief of police that no further action is warranted.
    - ii. The decision of the chief of police to counsel or caution the police officer regarding his conduct.
    - iii. The decision made in a disciplinary proceeding under the **Police Act.**
13. Upon receipt of you request, the Public Complaints Commissioner will review the matter, and his staff have broad powers to investigate. Documents must be made available, and individuals can be subpoenaed to answer questions.
14. After his review, the Public Complaints Commissioner may order a hearing before the Police Complaints Board where he feels that the public interest requires it. If he decides that there should not be a hearing, he will give you his reasons. The Public Complaints Commissioner will write to you, the chief of police and the police officer concerned about his decision.

Police Complaints Board Hearing

15. If a Police Complaints Board hearing is ordered, you will be notified in writing of the date and place of the hearing. You have a right to attend and take part in the hearing and to be represented by counsel or an agent. You will also be given an opportunity, prior to the hearing, to examine any written or documentary evidence or any report that will be given in evidence at the hearing. The hearing will be open to the public. You will receive a copy of the Board's decision.

Form 3

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

RECORD OF INFORMAL RESOLUTION OF COMPLAINT

Date of Complaint: May 1, 1982

File No.: 1-6-82 (P.C.C. File No. 216)

Complainant: John Doe

Name(s) of Officer(s) Concerned: P.C. John Smith, #111, No. 3 Traffic
(Include Rank, No. & Division)
Sgt. John Jones, #444, 31 Division

Resolved by: Staff Sgt. Jackson, #555, --- Public Complaints Investigation Bureau

Summary of Complaint and Investigation: The Complainant was involved in an accident on May 1, 1982. P.C. Smith and Sgt. Jones arrived on the scene and approached the Complainant in order to interview him. The first words that P.C. Smith uttered were, "You're an a......, look what you did". The Complainant also alleges that Sgt. Jones used profanity against him. Sgt. Jones then asked him for his driver's licence and proof of insurance. The Complainant feels that as he was not at fault for the accident Sgt. Jones should not have required him to produce his driver's licence and proof of insurance.

On May 8, 1982, received accident report form.

May 9, 1982, spoke with P.C. Smith who advised that prior to speaking with the Complainant he had to comfort the other driver involved in the accident who was badly injured as her head had banged against the windshield and caused excessive bleeding. He admits that he swore at the Complainant.

May 10, 1982, interviewed Sgt. Jones and he denies swearing at the Complainant, admits asking the Complainant for his driver's licence and proof of insurance but explains that this is lawful under the provisions of the Highway Traffic Act.

May 11, 1982, spoke with Complainant and arranged for a meeting on June 1, 1982.

PC 003 (Rev. 10/82)

Manner in which Complaint Resolved: Both the Complainant and P.C. Smith attended before the writer at which time P.C. Smith apologized to the Complainant for his outburst. The Complainant accepted P.C. Smith's apology and they shook hands.

The writer advised the Complainant of Sgt. Jones' denial and the Complainant agreed that he may have been mistaken about whether or not Sgt. Jones swore at him.

The writer advised the Complainant about Sgt. Jones' explanation that it was proper and lawful for him to ask for a driver's licence and proof of insurance under the Highway Traffic Act. The writer showed the Complainant the relevant sections of the Highway Traffic Act. The Complainant was satisfied with Sgt. Jones' explanation.

Both the Complainant and P.C. Smith signed Form 3 on June 1, 1982 and Sgt. Jones signed Form 3 on June 2, 1982.

I have read the record of informal resolution as described above.

I agree with the contents and am satisfied with the resolution.

Dated at Toronto, **this** 1st **day of** June, **19**82.

Witnessed by:

"Staff Sgt. Jackson, #555"	"John Doe"	June 1/82
	Signature of Complainant	**(date)**
"Staff Sgt. Jackson, #555"	"Sgt. John Jones"	June 2/82
"Staff Sgt. Jackson, #555"	"P.C. John Smith"	June 1/82
	Signature of Officer Concerned	**(date)**

APPENDIX II(d)

Example of Interim Report

Page 1 of 3 pages

Form 4

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

Report

1. File No.: ____________

2. Date of Report: November 4, 1982.

3. Type of Report: ☒ Interim ☐ Final

4. Name of Complainant: ____________

5. Name(s) of Police Officer(s) Involved (Include Rank and No.) ____________

6. Name of Investigator: Staff Sergeant

Summary of Complaint

7. Date, Time and Location:
Saturday October 2, 1982, 1:30 a.m., East side of Millwood Bridge

8. Description of Alleged Misconduct:

The complainant was arrested for driving while impaired. He was manhandled to the ground, handcuffed and taken for a breathalyzer test. After he had blown once into the machine, the officer started to adjust the dials and when the complainant questioned this, he was grabbed by the hair, whacked on the hand and taken to the cells, charged with refusing to supply a sample.

Form 4

Page 2 of 3 pages

Investigation

9.

Date	Location	Type of Investigation and Information Obtained
October 4/82	Bureau	Complaint Form received at the Public Complaints Investigation Bureau.
October 5/82	Telephone	Investigator contacted the complainant and discussed the aspects of the complainant. Complainant does not agree to an Informal Resolution.
October 16/82	Telephone	Investigator obtained particulars from the Record of Arrest.
October 17/82	Telephone	Copy of Record of Arrest requested.
October 17/82	Mail	Officers reports requested.
October 19/82	Bureau	Record of Arrest received.
October 27/82	Telephone	Investigator spoke with the complainant who advised his trial date was November 19, 1982. The complaint was discussed and the status of the investigation.
October 29/82	Bureau	Some officers reports received, returned for clarification.

Form 4

Page 3 of 3 pages

10. Description and Analysis of Documentary and Physical Evidence obtained

Type of Evidence	Description	Analysis
Record of Arrest	For complainant	Indicates time, date, place of arrest, charges, names of officers and that the complainant had no apparent injuries and no complaints.

(INTERIM REPORT ONLY,
INVESTIGATION CONTINUING)

Dated at TORONTO, this 4th day of November, 1982

"Signature of Investigator"
Signature of Investigator

Distribution: Complainant
Police Officer(s) Involved
Office of The Public Complaints Commissioner
File

APPENDIX II(e)

Example of Final Report

Page 1 of 6 pages

Form 4

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

Report

1. File No.: ____________________
2. Date of Report: December 6, 1982.
3. Type of Report: ☐ Interim ☒ Final
4. Name of Complainant: ____________________
5. Name(s) of Police Officer(s) Involved (Include Rank and No.) ____________________
6. Name of Investigator: Staff Sergeant

Summary of Complaint

7. Date, Time and Location:
Saturday, October 2nd, 1982 at 1:30 a.m.
East side of Millwood Bridge
8. Description of Alleged Misconduct:

See Interim Report dated November 4th, 1982 for Summary.

Form 4 Page 2 of 6 pages

Investigation

9.

Date	Location	Type of Investigation and Information Obtained
December 3/82		See Interim Report for investigation to date.
December 3/82	Telephone	Investigator contacted the complainant and advised that the investigation was completed.

Form 4

Page 3 of 6 pages

10. Summaries of Statements of Complainant, Police Officer(s) and Witnesses

Person Interviewed	Summary of Statement (include all relevant details)
.....	He was working with.....and they were on their way to a call. He observed a van in front that appeared to be going well over the speed limit. ..... being the driver of the scout car, accelerated to a speed of 100 km/h and the van was still pulling away. The van stopped and ..... approached the driver and he approached the passenger side of the vehicle. The complainant got out of the van and began to speak with .... advised the complainant he had been stopped for speeding, the complainant denied this. He detected the smell of an alcoholic beverage coming from the complainant's breath and his speech seemed to be slurred. ..... advised the complainant he was under arrest for impaired driving and took hold of the complainant's right arm and asked him to go to the rear of the police car. The complainant said, "No, I don't think you have the right." He then took hold of the complainant's left arm after the complainant had again refused to go. The complainant was placed up against the side of the car in order to search him. The complainant refused and folded his arms in front of himself when the officers went to handcuff him. The complainant suddenly pushed away from the side of the car and the officer was knocked to the pavement. The officer still had hold of the complainant and, as he fell, he managed to pull the complainant down. While on the ground the officers managed to get the complainant's arms behind his back and place the handcuffs on him and search him. The complainant was placed in the rear of the scout car. He went to the complainant's van and searched the interior and located full and empty bottles of beer. He then secured the complainant's vehicle as

Summaries of Statements of Complainant, Police Officer(s) and Witnesses

Person Interviewed	Summary of Statement (include all relevant details)
(con't)	best he could as two locks were not working. The complainant was then transported to ..... for breath samples. At the station the complainant was viewed. The Viewing officer again advised the complainant why he had been arrested. The complainant was placed in a room and later taken for breath tests. The complainant was later returned to the officers. The officer was advised that the complainant had refused to give suitable samples for an analysis to be made of his breath. The complainant was then transported back to ..... paraded before a Sergeant and placed in the cells to sober up.
.....	He corroborates the statement of ..... and further adds, when the complainant was placed in the room at the station he requested a telephone call. The officer began dialing the number and the complainant then changed his mind and stated he would call his wife later. The complainant also advised that he wished to call his lawyer. The officer informed the complainant that now was the time to call his lawyer, prior to the breath test. The complainant refused the call.
.....	He was the breathalyzer officer and the complainant was brought before him. He interviewed the complainant, asked the complainant to supply a breath sample, which he did and the officer obtained a reading of 130 mgms. The complainant then stated he wanted to see how the machine worked and his attitude became very abusive. The complainant would not listen to anything the officer said to him. He began explaining how the machine worked and the complainant started to put his hands on the breathalyzer instrument and started to manipulate the balance wheel. He knocked the complainant's hand from the instruments and warned him not to touch the instrument. The complainant then began

10 Summaries of Statements of Complainant, Police Officer(s) and Witnesses

Person Interviewed	Summary of Statement (include all relevant details)
	to interfere with the instrument and he was again warned. The officer then knocked the complainant's hand away again. The complainant again put his hand over the instrument and kept interfering with it, and was again warned. He realized if he did not get the complainant out of the room, there would be a good possibility the machine would have been damaged. He told the complainant to get out of the office, but he refused to leave. He then took hold of the complainant by the scruff of the neck and pulled him out of the seat and handed him over to the arresting officers. During the time the complainant was in his presence he was arrogant, abusive and kept denying he was impaired. After the complainant was removed from the office, he checked the machine and discovered the complainant had broken the bubbler and, without this, it would have given a wrong reading. He denies grabbing the complainant by the hair.
Sergeant from	The complainant was brought before him, interviewed and then placed into a room to be interviewed by the Breathalyzer Technician. The complainant made no complaint to him about the arresting officers or any complaint of injury. The complainant did not complain about ..... before being returned to .....
Sergeant, No.	The complainant was brought before him and he observed that the complainant was under the influence of something, he later discovered to be alcohol. The complainant was belligerent and was placed in the cell until the effects of the drink had worn off. At the time of the complainant's release he was an entirely different person and was most co-operative. As the complainant was walking out the door he

Form 4

Page 6 of 6 pages

11. Description and Analysis of Documentary and Physical Evidence obtained

Type of Evidence	Description	Analysis
	inquired where Headquarters was, so that he could complain. He advised the complainant as to the location.	
Station Operator	He observed the complainant when he was brought into the booking hall. The complainant was given a phone call which he signed for and was then placed in a cell to sleep off the effects of alcohol.	
Record of Arrest	The complainant was arrested for Impaired Driving and Refuse Samples. Medical Notes indicates no apparent injury, advised of rights and no complaints.	
Alcohol Influence Report, for the complainant	Indicates one reading had been taken and then the complainant was removed from the office, as he was interfering with the machine.	

THE CHIEF OF POLICE OR HIS DESIGNATE WILL REVIEW THIS INVESTIGATION REPORT AND YOU WILL BE NOTIFIED OF HIS DECISION IN DUE COURSE.

Dated at TORONTO, this 6th day of December, 1982.

"Signature of Investigator"
Signature of Investigator

Distribution: Complainant
Police Officer(s) Involved
Office of The Public Complaints Commissioner
File

Example of Decision of Chief's Designate

APPENDIX II(f)

Metropolitan Toronto Police

JOHN W. ACKROYD, *Chief of Police*

590 Jarvis Street
Toronto, Ontario
Canada. M4Y 2J5

(416) 967-2222.

Please reply attention of
Executive Services

File No. [redacted]

December 29, 1982

[redacted]
Toronto, Ontario.
M4L 2J1

Dear Sir:

This is to advise that your allegations against the members of this Force listed below, have been investigated by the Public Complaints Investigation Bureau:

[redacted]

The Bureau's investigation has been reviewed by me in my capacity as Complaint Review Officer, and following are my comments and finding:

Allegation No. 1

You allege that [redacted] kicked in the door with his gun drawn.

Comments:

[redacted] denies this. He says that when he was half through the open door, you slammed it on his chest. In the livingroom, he saw you go for something on your side. He twice demanded you put your hands forward, but you didn't. The officer then unholstered his revolver. He states that you then put both hands forward and seeing that you had nothing in your hands, he re-holstered his gun.

The officer had reasonable and probable grounds to believe that your driver's licence was under suspension. He had stopped you the previous day driving a motor vehicle. The Highway Traffic Act, Section 35, makes it an offence to drive a motor vehicle if your licence is suspended.

Section 190 of the Highway Traffic Act gives an officer the power to arrest, without warrant, a person who he believes on reasonable and probable grounds has committed the above offence.

Continued - 2.

Comments re Allegation No. 1 - Continued.

Section 246 of the Criminal Code pertains to the offence of "Assault Police".

Section 25(1) of the Criminal Code justifies the use of as much force as is necessary to enforce the law.

The Metropolitan Toronto Police Rules and Regulations and The Police Act govern when an officer may use his service revolver.

Allegation No. 2

You allege that [redacted] kicked you down the steps on the front path of the house.

Comments:

[redacted] denies this allegation and his denial is corroborated by

A witness who saw the incident states that [redacted] walked you down the steps to the car.

Allegation No. 3

You allege that while being transported to the station, you were beaten in the back seat of the police car.

Comments:

[redacted] denies this. He states that you went berserk in the car and had to be held down all the way into the station, [redacted] corroborate [redacted] denial.

Allegation No. 4

You allege that when you arrived at [redacted] you were assaulted by other officers after which you were taken upstairs.

Comments:

[redacted] states that upon arrival at [redacted] he took you to the Officer in charge and then up to the Criminal Investigation Office. He denies assaulting you and his denial is corroborated by [redacted]

The Officer in charge states that you told him you had been fighting with the officer who arrested you and had a sore chest. You made no mention of having been beaten in the car or at the station.

The investigating Sergeants asked you how you injured your ribs and you told them that you had fallen down the stairs. You made no complaint to them of having been beaten.

While making your complaint at the Complaint Bureau, you said that you resisted the officer's attempt to arrest you.

Continued -

Finding:

Based on the evidence available, I find that no action is warranted against the police officers.

If you are not satisfied with my finding, you have the right to request a further review of your complaint by contacting Mr. S. Linden, Q.C., the Public Complaints Commissioner. His office is located at 157 Bloor Street West, Toronto, Ontario, M5S 1P7.

Yours very truly,

J. Noble,
Deputy Chief of Police,
Complaint Review Officer.

JN:wm

Copies to: Public Complaints Commissioner,
[redacted]

APPENDIX III

Example of Report of the Public Complaints Commissioner after a Review

Investigation of a Complaint

pursuant to

The Metropolitan Police Force Complaints Project Act, 1981

Reference No: 987

Complainant: Mr. A.

Investigator: Ms. J. Alphabet

REPORT

OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER

COMPLAINANT: Mr. A DATE: May 31, 1983

The facts of this case may be briefly stated as follows:

On Saturday, September 4th, 1982, at approximately 1:37 p.m., the complainant, Mr. A, was riding his motorcycle, in the company of five friends on three other motorcycles, northbound on Markham Road. He and his friends were pulled over by an officer in a marked police vehicle which came up on the shoulder of the road and the officer honked his horn and motioned them over. Mr. A and his friends pulled over to the side of the road, a short distance north of Steeles Avenue. The police vehicle, driven by P.C. X, stopped in front of the group and a second police vehicle, driven by P.C. Y, pulled up behind them.

P.C. X then asked Mr. A and the operator of the second vehicle for their driver's licence, ownership and insurance. P.C. Y checked the third and fourth vehicles.

Mr. A states that when he pulled over, he asked P.C. X twice why he had been stopped and did not receive an answer. P.C. X states that he informed Mr. A. that his reason for stopping him was for an examination of his driver's licence, insurance and ownership papers. P.C. X requested information regarding height, hair colour and weight. The helmets of all parties were checked and one person received a Provincial Offences Notice for not having a proper CSA sticker in his helmet.

According to Mr. A, the motorcyclists were allowed to proceed at approximately 2:05 p.m.; the police officers left the area at 2:10 p.m.

On September 22nd, 1982, Mr. A met at the scene with Sergeant Z from the Public Complaints Investigation Bureau, of the Metropolitan Toronto Police Department and agreed that the officers had not seriously interfered with traffic. One witness states the officers caused a bit of a slow down in traffic but that there was no unusual movement of traffic. Another witness stated that the officer's driving on the shoulder of the road was no hazard to traffic. P.C. X admits that he was driving on the right shoulder of the road because he wanted to stop and investigate Mr. A and his friends.

In his letter requesting a review, dated December 16th, 1982, Mr. A writes:

> "The Highway Traffic Act states that a police cruiser may travel on the shoulder of the road in the performance of duty, however, all subsections of this clause are obviously written for emergency use; i.e., ambulance, cardiac arrest, etc. For an officer to use this section in order to pull over four motorcyclists who have committed to moving violation and who have no obvious equipment violations, is a misapplication of the law...".

The second issue in this review is whether or not a police officer may stop a motorist merely to check his driver's licence. Mr. A writes,

> "To be the subject of harassment whether because of a person's race, colour, or the type of vehicle one has, is wrong ... For a police officer to pursue four law-abiding drivers, pass traffic on the shoulder of the highway during this pursuit, detains drivers and passengers for 30 minutes ... is, I believe, arbitrary and unnecessary. ... I feel that what happened was wrong; that a law-abiding citizen should be free from actions such as these ...".

The two issues in this review will be addressed separately.

I. The Right of the Police Officer to Drive on the Shoulder of the Road

The evidence in this review shows that the subject officer drove on the right shoulder of the road in order to stop and investigate Mr. A and his friends. His authority to do so depends on Section 129 of the Highway Traffic Act. Section 129 is the result of an amendment to the Highway Traffic Act through "Bill 150" in 1981. This relatively new section provides:

> "129. - (1) The driver of a motor vehicle may overtake and pass to the right of another vehicle only where such movement can be made in safety and,
>
> (a) the vehicle overtaken is making or about to make a left turn or its driver has signalled his intention to make a left turn;
>
> (b) is made on a highway with unobstructed pavement of sufficient width for two or more lines of vehicles in each direction; or
>
> (c) is made on a highway designated for the use of one-way traffic only.
>
> (2) No driver of a motor vehicle shall overtake and pass another vehicle by driving off the roadway.
>
> (3) Subsection (2) does not apply to the driver of,
>
> (a) a motor vehicle overtaking and passing to the right of another vehicle where the shoulder to the right of the roadway is paved and the vehicle overtaken is making or about to make a left turn or its driver has signalled his intention to make a left turn;
>
> (b) an ambulance or fire department vehicle as defined in section 43;
>
> (c) a police department or Ministry emergency vehicle; or

> (d) a tow truck where the driver is responding to a police request for assistance. 1981 c. 48, s. 17".

Clearly, only subsection 129(3)(c) is relevant to the facts of this case, but the precise meaning of this subsection appears to be the source of some confusion.

In the final report of the Bureau, at page 5, Section 129(3)(c) is listed as exempting police vehicles from Section 129 (2) and Section 124(1)(a) is cited as authority for the proposition that "emergency vehicle" includes a vehicle while used by a person in the lawful performance of his duties as a police officer. It would appear that the subject officer interpreted his right to pass the vehicle on the paved right shoulder of the highway in the same way. However, Section 124 (1)(a) reads:

> "124. - (1) In this section,
>
> (a) "emergency vehicle" means,
>
> (i) a fire department vehicle while proceeding to a fire or responding to, but not returning from a fire alarm or other emergency call,
>
> (ii) a vehicle while used by a person in the lawful performance of his duties as a police officer,
>
> (iii) an ambulance while responding to an emergency call or being used to transport a patient or injured person in an emergency situation, or
>
> (iv) a cardiac arrest emergency vehicle operated by or under the authority of a hospital;"

Section 124, in its entirety, deals with signal lights and Section 124(1) clearly and unambiguously restricts this particular definition of emergency vehicle to this section

(Section 124(1), "In this section"). Accordingly, the definition does not apply to Section 129.

Some confusion may arise from the use of the *Office Consolidation of the Highway Traffic Act* by members of the public. In the Index to this office consolidation, under the heading "Emergency Vehicle", the words and section "definition....124(1)(a)" is indicated. This might lead a reader without legal training to take the Section 124(1)(a) definition of "emergency vehicle" as a general definition which applies to the whole *Highway Traffic Act*. There is, of course, no such error in the official statutes, but because the pocket version is in such frequent use throughout the province, the misleading indexing in the pocket edition could easily serve to misinform both police officers and members of the public.

Any general definitions are usually found in the interpretation section of the appropriate statute.

In Section 1 of the *Highway Traffic Act*, there is no general definition of "emergency vehicle". It is, therefore, helpful to look at other sections of the *Highway Traffic Act* which deal with emergency vehicles, although there are not that many of them. In *R.* v. *Walker* (1979) 48 C.C.C. (2d) 126 at 130, Zalev, Co. Ct. J. comments,

> "The *Highway Traffic Act* provided no exemption whatsoever for any emergency vehicle until 1941 when the Act was amended to provide that speed limits did not apply to fire department vehicles proceeding to a fire or answering a fire alarm call. Although amendments from time to time were made to the section providing for such exemption, it was not until 1963 that

> the Act was amended to include an exemption for a motor vehicle operated by a person in the lawful performance of his duties as a police officer. Over 30 years have elapsed since Hubbs [R. v. Hubbs] (1947), 90 C.C.C. 45, [1947] O.W.N. 802 (H.C.)] and 15 years since the speed limit exemption was extended to police vehicles, but in all that time, the Legislature has not seen fit to extend this exemption to any other provision of the Highway Traffic Act."

In 1981, in Bill 150, the Legislature did see fit to add two new exemptions to the Highway Traffic Act. One was a revamped s. 129, which gave "a police department or Ministry emergency vehicle" the right to pass to the right and the second section was an entirely new s. 135a which prohibits backing on a paved expressway shoulder. Section 135a introduced in the same bill and at the same time as Section 129 reads:

> "135a. - (1) No driver of a vehicle shall back the vehicle upon the roadway or shoulder of any highway divided by a median strip which the maximum speed limit is in excess of 80 kilometres an hour.
>
> (2) Subsection (1) does not apply to,
>
> (a) the driver of an ambulance or fire department vehicle as defined in Section 43;
>
> (b) the driver of a police department or Ministry vehicle; or
>
> (c) a person attempting to render assistance to another person. 1981, c. 48, s. 18."

It is important to observe that Section 135a(2)(b) refers to a "police department or Ministry vehicle" not "emergency vehicle" as in Section 129. Section 135a introduced a prohibition where none previously existed. It is, therefore, arguable that the exemptions to this new prohibition were deliberately kept as wide as possible.

For example, a person attempting to render assistance to another person would not be prohibited from backing his vehicle on an expressway. Furthermore, any driver of a police department vehicle is permitted to back a vehicle on the shoulder of a highway, and no emergency or special circumstances of any kind need exist.

Passing to the right of a vehicle on a paved shoulder, on the other hand, has only been allowed in limited circumstances for a long time and before the 1981 amendment to the Highway Traffic Act, there was no exemption given either to a vehicle used by a person in the lawful performance of his duties as a police officer, a police emergency vehicle or an emergency vehicle of any kind.

The new section 129 was restructured to prohibit passing to the right by driving off the roadway entirely and then in Section 129(3) four exceptions are set out. Here, rights previously non-existent were given in Section 129(3) (b), (c) and (d). These newly given exemptions are limited rights, implicitly restricted to situations of real difficulty. The word "emergency" modifying "vehicle", in Section 129 (3)(c) was added for a purpose and the absence of the word "emergency" in Section 135a cannot be attributed to the Legislature by inadvertence, but rather by intention.

It is a well-established rule of statutory construction that a reader of statutes has the right to assume that every word has meaning and function.[1.]

If the Legislature had wished all police vehicles to be covered by the exemption in Section 129 (3)(c), it could have chosen simply to use "police vehicle" as in Section 135a (2)(b), or it could have chosen to specify "a vehicle while used by a person in the lawful performance of his duties as a police officer" such as was done in Section 124 (1)(a)(ii). Alternatively, Section 129(3)(c) could have specifically referred to a definition in another section, as was done in Section 129 (3)(b) with respect to "ambulance" and "fire department vehicle."

As the Act now stands, it is my opinion that only a police department emergency vehicle is exempt from the rule in Section 129(2) prohibiting vehicles from overtaking and passing another vehicle by driving off the roadway, and "emergency vehicle" appears to mean a vehicle used in a situation of real emergency or difficulty.

In this case, there is no evidence whatsoever that there was any kind of emergency. According to the subject officer himself, the decision to stop the vehicles was taken "for the purpose of enforcing the Highway Traffic Act." Accordingly, in my view, it was improper for the officer to pursue a group of vehicles by driving along the right shoulder of the road in the absence of an emergency situation.

However, the position of emergency vehicles in the whole of the Highway Traffic Act is so unclear that it would be inappropriate to fault the officer. It was not unreasonable for him to read "police department emergency vehicle" as including a "vehicle while used by a person in the lawful performance of his duties as a police officer."

In fact, this is the way the Bureau read the Section. Until the position of "emergency vehicles" in the Highway Traffic Act is clarified, some confusion will persist. Only after a close analysis of Section 129, encompassing the history of the legislation and including a comparison of Section 129 with other relevant sections, was it possible to reach the above conclusion.

Although it is my view that the officer's vehicle was not an "emergency vehicle" within the scope of Section 129, it may be briefly noted, that case law has been quite clear in outlining the duty of care which a driver of a bona fide emergency vehicle owes to other users of the road. Even where priority of passage is given to emergency vehicles, it is not an absolute right and there is still a duty to exercise due care, attention and reasonable consideration for other users of the highway. (See Segal, Manual of Motor Vehicle Law at p. 9-63). In this particular case, the evidence suggests that P.C. O'Connor's driving posed no hazard to other users of the highway.

II. The Right of a Police Officer to Stop a Motorist

The second issue in this review is the right of an officer to stop a vehicle under the Highway Traffic Act. The relevant legislation provides:

ss. 189a(1) & (2)

> (1) A police officer, in the lawful execution of his duties and responsibilities, may require the driver of a motor vehicle to stop and the driver of a motor vehicle, when signalled or requested to stop by a police officer who is readily identifiable as such, shall immediately come to a safe stop.

> (2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than $100 and not more than $2,000 or to imprisonment for a term of not more than six months, or to both.

s.19

> (1) Every driver of a motor vehicle shall carry his licence with him at all times while he is in charge of a motor vehicle and shall surrender the licence for reasonable inspection upon the demand of a constable or officer appointed for carrying out the provisions of this Act.
>
> (2) Every person who is unable or refuses to surrender his licence in accordance with subsection (1) shall, when requested by a constable, give reasonable identification of himself, and, for the purposes of this subsection, the correct name and address of such person shall be deemed to be reasonable identification.

Furthermore, every police constable, who on reasonable and probable grounds, believes that any person has committed a contravention of subsection 189a (1) or 19(2) may arrest such person without a warrant, (s.190(2) H.T.A.).

Section 189a is relatively new law which was added to the H.T.A. in 1931 and was part of "Bill 178." Bill 178 also added s. 30a to the Act. Section 30a(1) provides:

> (1) A police officer, readily identifiable as such, may require the driver of a motor vehicle to stop for the purpose of determining whether or not there is evidence to justify making a demand under section 234.1 of the Criminal Code (Canada).

Section 189a(1) provides for a general power to stop a driver when a police officer is acting in the lawful execution of his duties, while s.30a(1) provides for a specific power to stop in order to determine whether a motorist has consumed alcohol.

The introduction of Bill 178 followed a decision of the Ontario Court of Appeal in the case of *Regina v. Dedman* (1981) 32 O.R. (2d) 641, in which the issue of a police officer's power to stop a motorist was discussed at length. That case is presently under appeal to the Supreme Court of Canada.

In the *Dedman* case, a police officer, operating a R.I.D.E. spot check, signalled Mr. Dedman to stop. Mr. Dedman complied with this request to stop, at which time the officer asked him for his driver's licence. While the two were speaking, the officer smelled a strong odour of alcohol and demanded that Mr. Dedman provide a sample of his breath into a road-side screening device.

The question that the Court of Appeal was asked to decide, was whether Mr. Dedman, in view of the above circumstances, would have a reasonable excuse for failing to comply with the officer's demand for a breath sample, since the officer had no reason to believe that Mr. Dedman had committed any offence at the time he signalled him to stop.

The Court of Appeal found that since Mr. Dedman *voluntarily* complied with the officer's signal to stop it was not necessary to deal with the issue of police power to stop a vehicle in order to render its decision. Nevertheless, the court did make some general comments.

At page 652, the Court of Appeal states the following:

> "The Act /H.T.A.7 does not, however, unlike the highway traffic legislation in some provinces, empower a constable to arrest without warrant a motorist who fails to obey a signal to stop.

> ...Since the respondent complied with the officer's signal to stop, I am not required to decide whether, in the circumstances, the officer in giving a signal to stop was validly exercising an implied power under s. 14 [now s.19] of the H.T.A., or was validly exercising a power ancillary to his general duties to protect persons and property and to detect crime, thus rendering the respondent, had he not stopped, liable to arrest for wilfully obstructing a peace officer in the execution of his duties. Those are questions of some difficulty requiring careful consideration which should be reserved and decided on the facts of a particular case if and when it becomes necessary to do so. It is, of course, within the competence of the Legislature and Parliament to place the matter beyond question."

Although the Court of Appeal refrained from deciding whether an ancillary or implied power existed, it did make the following statement:

> "Mr. Justice Maloney [of the H.C.J.] when he stated that a police officer has a power to stop a vehicle in order to demand production by the driver of his licence when that is the officer's true purpose, was, I think, using the term in the sense that in those circumstances a police officer signalling a driver to stop is validly exercising a power that exists by necessary implication for the due execution of his duties under s.14 [now s.19] of the H.T.A. In any event, the proposition that such an ancillary power exercisable in proper circumstances, exists commends itself to me. There is statutory authority for the existence of implied or ancillary powers. Both The Interpretation Act R.S.O. 1970, c. 225, s. 27(b) and The Interpretation Act, R.S.C. 1970, c. 1-23, s.26(2) provide that where a power is given to a person, officer or functionary to do or enforce the doing of any act or thing, all such powers shall be understood or deemed to be also given as are necessary to enable such a person to do or enforce the doing of the act or thing."

The decision of the Ont. C.A. in R. v. Dedman reversed two lower court decisions (of the Prov. Ct. per Charles, Prov. Ct. J. and the Ont. High Court of Justice per Maloney, J.) which had addressed the question of whether the police officer had the power to stop the vehicle in the Dedman case and had decided that the stopping of Mr. Dedman's vehicle by an officer of the R.I.D.E. spot check programme was not authorized by any law and was an unjustifiable interference with Mr. Dedman's personal liberty.

The Court of Appeal, however, approached the question of whether there was unjustifiable interference with Mr. Dedman's liberty in a different manner. It stated that a distinction must be made between a legal liberty, that is, something that a person may do without breach of the law, and a legal right, which the law will enforce, to do something or not to be prevented from doing something. The officer in Dedman was entitled to signal the respondent to stop, in the sense that in so doing he was not in breach of any law, and was not committing a crime or committing any tort against the motorist. It concluded that on the facts of the case, Mr. Dedman was not unlawfully detained and stated, starting at page 656:

> "In Donnelly v. Jackman 1 All E.R. 987, a police officer approached the accused on the street for the purpose of making inquiries about an offence which the officer suspected the accused had committed, and when the accused ignored the officer's request to stop and speak to him, the officer tapped the accused on the shoulder to attract his attention, whereupon the accused struck the officer with some force. The Queen's Bench Divisional Court in dismissing the accused's appeal from his conviction for assaulting a police officer in the execution of his duty, said that it was not every trivial interference with the citizen's liberty that amounted to a course of conduct sufficient to take the officer out of the course of his duties.

> I do not consider that the signal to stop given by a police officer to a motorist is any greater interference with the liberty of the citizen than tapping a person on the street on the shoulder in order to attract his attention for the purpose of questioning him."

The Court of Appeal further drew support for this proposition from the Supreme Court of Canada decision in R. v. Chromiak (1980) 49 C.C.C. (2d) 257. In that case, the erratic manner in which Mr. Chromiak was driving attracted the attention of a police officer who signalled him to stop. Mr. Chromiak stopped. The officer then requested him to perform certain sobriety tests and he complied. The officer believed that Mr. Chromiak's ability to drive might be impaired and requested a breath sample. Mr. Chromiak refused to provide the sample, saying he wanted his lawyer present on the street before taking any tests. The police officer then wrote out an appearance notice and permitted Mr. Chromiak to go on his way in view of the fact that his companion was sober.

The issue in the Chromiak appeal was whether Mr. Chromiak had been deprived of the right to retain and instruct counsel within s.2(c)(ii) of the Canadian Bill of Rights, R.S.C. 1970, App. III. The S.C.C. dismissed the appeal and held that Mr. Chromiak was not "detained" within the meaning of s. 2(c) of the Canadian Bill of Rights.

The Court of Appeal in R. v. Dedman quotes Ritchie, J. of the S.C.C. in the Chromiak decision (49 C.C.C. (2d) 257 at pages 262-3) as follows:

> "It appears to me to be obvious that the word "detention" does not necessarily include arrest, but the words, "detain"

> and "detention" as they are used in s. 2(c) of the Bill of Rights, in my opinion, connote some form of compulsory restraint and I think that the language of s. 2(c)(iii) which guarantees to a person "the remedy by way of habeas corpus for the determination of the validity of his detention and for his release if the detention is not lawful," clearly contemplates that any person "detained" within the meaning of the section is one who has been "detained" by due process of law. This construction is supported by reference to ss.28(2)(b), 30, 136(a), 248 and 250 of the Criminal Code where the words "to detain" are consistently used in association with actual physical restraint.
>
> ...
>
> In the present case, after the appellant had co-operated in furnishing the preliminary sobriety tests he was allowed to go away, and as I have indicated, I am of the opinion that he was at no time detained.
>
> In view of all the above, I have concluded that the appellant was not a person who had, while "arrested and detained" been deprived of the right to "retain and instruct counsel without delay" and I am unable to find any reasonable excuse for his failure to comply with the demand made to him by the peace officer."

In the Appellate Division of the Supreme Court of Alberta, Clement, J.A. said (46 C.C.C.(2d) 310 at 317-18):

> "I am of the opinion that the word "detained" as used in s.2(c)(ii) refers to the case of a person held against his will, one who is not free to depart when he pleases.
>
> In essence what happened here was that when Chromiak was faced with the demand he said, in effect and to speak colloquially, "Thanks, but no thanks". He was not arrested nor detained: he was left free to go, and to go in his car since his companion would be driving..."

The new Canadian Charter of Rights contains a section similar to s.2 (c) in the former Bill of Rights. Section 10 of the Charter provides:

> 10. Everyone has the right on arrest or detention
>
> (a) to be informed promptly of the reasons therefor;
>
> (b) to retain and instruct counsel without delay and to be informed of that right; and
>
> (c) to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful.

Section 9 also provides:

> Everyone has the right not to be arbitrarily detained or imprisoned.

The word "detention" has so far been given the same meaning as it had in the Bill of Rights per R. v. Chromiak where the word "detained" was held to connote some form of compulsory restraint.[2.]

In 1981, the Ontario Legislature decided to take steps to place the matter of police powers to stop a vehicle under the H.T.A. beyond question and introduced Bill 178. The wording of s. 189a clearly gives a police officer in the lawful execution of his duties and responsibilities the express authority to require a motorist to stop. The phrase "in the lawful execution of his duties and responsibilities" was added to s. 189a(1) by the Standing Committee on the Administration of Justice after Second reading because some concern had been expressed in the Legislature about the expansion of police powers in this particular area and the potential for too many arbitrary stops. The Bill itself came about because of a desire for amendments in the drinking and driving area and particularly to ensure the continuation of random spot checks such as the R.I.D.E. programme. However, while s. 30a deals specifically with such programmes, s. 189(1)(a) is of general application. In the end, the new legislation was strongly supported by all three parties in the Legislature and the Bill became law when it received Royal Assent on December 18, 1981.[3]

In R. v. Dedman, the Court of Appeal stated at page 647:

> "The primary functions of the police at common law are to prevent crime, to protect life and property, and to detect and apprehend offenders. The latter function involved the gathering of evidence not only to warrant laying a charge against a specific individual, but to establish his guilt (if he be guilty) in a court of law. The control of highway traffic has also become an important police function in modern times: 30 Hals. (3d), p. 129; The Report of the Canadian Committee on Corrections, p. 39".

The Police Act, R.S.O. 1980, c.381, s.57 provides:

> 57. The members of police forces appointed under Part II, except assistant and civilian employees, are charged with the duty of preserving the peace, preventing robberies and other crimes and offences, including offences against the by-laws of the municipality, and apprehending offenders, and commencing proceedings before the proper tribunal, and prosecuting and aiding in the prosecuting of offenders, and have generally all the powers and privileges and are liable to all the duties and responsibilities that belong to constables. R.S.O. 1970, c. 351, s.55

In the High Ct. of Justice decision in R. v. Dedman, Maloney, J. makes frequent reference to the English case, *R.* v. *Waterfield et al*, /1964/ 1 Q.B. 164 (C.C.A.), in which Ashworth J. at pp. 170-1 said:

> "In the judgment of this court it would be difficult, and in the present case it is unnecessary, to reduce within specific limits the general terms in which the duties of police constables have been expressed. In most cases it is probably more convenient to consider what the police constable was actually doing and in particular whether such conduct was prime facie an unlawful interference with a person's liberty or property. If so, it is then relevant to consider whether (a) such conduct falls within the general scope of any duty imposed by statute or recognised at common law and (b) whether such conduct, albeit within the general scope of such a duty, involved an unjustifiable use of powers associated with the duty.
>
> Thus, while it is no doubt right to say in general terms that police constables have a duty to prevent crime and a duty, when crime is committed, to bring the offender to justice, it is also clear from the decided cases that when the execution of these general duties involved interference with the person or property of a private person, the powers of constables are not unlimited."

Maloney, J. comments that:

> "The Waterfield test for the validity of police actions has been applied by the Supreme Court of Canada in *R.* v. *Stenning* /1970/ 3 C.C.C. 145, 10 D.L.R. (3d) 224, /1970/ S.C.R. 631, and again in *Knowlton* v. *The Queen* (1973), 10 C.C.C. (2) 377, 33 D.L.R. (3d) 755, /1974/ 443."

The powers of a constable to stop a vehicle were expanded by the addition of s.189a to the *H.T.A.* in Ontario. A police officer, on duty, and pursuing his responsibility to enforce the *H.T.A.* may pull a vehicle over to the side of the road merely to verify a driver's licence or request proper identification. The question of whether there is an unjustifiable interference with a motorist's liberty when he or she is stopped by a police officer for no specific reason remains a thorny one.

To reiterate, the two lower court decisions in R. v. Dedman decided there was an unjustifiable interference and found authority in the common law for this position. However, the Court of Appeal decision and the recent clear amendments to the H.T.A. do not support this proposition. Furthermore, cases on the Charter of Rights so far support the view that a "detention" connotes some form of compulsory restraint and that a motorist who is stopped by a peace officer is not "detained" within the meaning of ss.9 or 10 of the Charter.

The subject officer in this review, P.C. O'Connor, had legal authority to stop the complainant and request identification. The H.T.A. imposes a duty on the motorist to comply with a request to stop and to produce a driver's licence on request. According to the case law, which has been reviewed above, there was no unjustifiable interference with the complainant's liberty and in my view the 30 minute stop did not constitute a "detention" within the scope of the Charter of Rights.

Section 189a gives a police constable a very wide discretion. While it was being debated in the Legislature, critics of Bill 178 argued that the discretion given in this section is too wide and that if exercised arbitrarily, such a power could well be used as an instrument for harassment. Supporters of the Bill pointed out that police officers already have a wide discretion in enforcing the law and that they have demonstrated their ability to use these powers wisely. The Legislature, in its wisdom, enacted this legislation and I pass no judgment on it.

Traditionally, the common law has held that an act done in execution of a statutory power ought to be done honestly and within the spirit of the enactment. A discretion is to be exercised reasonably and not at the mere whim or caprice of the person to whom it is entrusted. It is not to be vague and fanciful, but legal and regular. It ought to be exercised within the limit to which an honest man competent to the discharge of his office ought to confine himself.[4]

The subject officer in this case acted legally when he required the complainant to stop. There is no evidence that he behaved in any way other than an honest man competent to the discharge of his duties. P.C. X decided to stop the vehicles "for the purpose of enforcing the H.T.A." and when P.C. Y observed P.C. X accelerating in an obvious effort to catch up with the group of motorcyclists, he joined P.C. X "assisted with the investigation and paperwork." Two witnesses, commented that the officers were "business-like" and there were apparently no words exchanged which would indicate harassment. In short, there is no concrete evidence of bad faith.

I am satisfied that Mr. A's complaint has been thoroughly reviewed by this Office and that in this particular case no further action is warranted, other than the following recommendation, which I am making pursuant to s. 17 of the Metropolitan Police Force Complaints Project Act, 1981.

RECOMMENDATION

The Ministry of the Attorney General should study the emergency vehicle provisions in the H.T.A. in order to:

1. Clarify the position of emergency vehicles in the Act as a whole, and
2. Clarify or define what an emergency vehicle is in the particular sections of the Act in which no definition exists.

In my review of Mr. A's case, I noted that the position of emergency vehicles in the H.T.A. is unclear. The section 124 (1)(a)(ii) definition of "emergency vehicle" applies only to s.124 and should not be interpreted by the police community to be a general definition for the whole Act. Historically, there were few exemptions given to emergency vehicles and perhaps the infrequent but piecemeal addition of a new section now and again has resulted in some inconsistency. An overall review of the appropriate sections of the H.T.A. would be beneficial, with special attention being paid to wording, consistency and clarity. Any subsequent changes should be made only after an examination of the policy behind the exemption of emergency vehicles in the context of the entire Act.

SIDNEY B. LINDEN
Public Complaints Commissioner

SBL/vmz

FOOTNOTES

1. Maxwell on the *Interpretation of Statutes* Twelfth Edition, by P. St. J. Langan, London: Sweet and Maxwell, 1969. At page 35.

   Driedger, E.A. *The Construction of Statutes*, Toronto: Butterworths, 1974, at page 73.

   In *Hill v. William Hill (Park Lane Ltd.)* [1949] A.C. 530 at pp. 546-547, Viscount Simon said,

   > "The rule that a meaning should, if possible, be given to every word in the statute implies that, unless there is good reason to the contrary, the words add something which would not be there if the words were left out."

2. Numerous cases, usually roadside breathalyzer cases have discussed the meaning of detained or detention in sections 9 and 10 of the *Charter of Rights*, see, for example:

   R. v. Denton (Aug. 11, 1982), 8 W.C.B. 417 (Alta. Prov. Ct., Enright, Prov. Ct. J.)
   A motorist who is stopped, albeit arbitrarily for a vehicle check is not detained within the meaning of section 9. *R. v. Chromiak* (S.C.C.) was applied.

   R. v. Altseimer (1982) 38 O.R. (2d) 783 (Ont. C.A.)
   No detention per section 9 of the Charter.
   R. v. Chromiak cited.

   R. v. Holman (July 15, 1982) 9 W.C.B. 257 (B.C. Prov. Ct., McCarthy Prov. Ct. J.)
   Accused was not "detained" per section 9.
   Chromiak applied.

   R. v. Hennessey (Aug. 26, 1982), 8 W.C.B. 419 (Alta. Prov. Ct., McMeekin Prov. Ct. J.)
   R. v. Chromiak (S.C.C.) applied.

   R. v. Wesley (August 18, 1982, Alta, Prov. Ct., Aunger Prov. Ct. J.)
   R. v. Chromiak applied.

   R. v. Pasemko (Aug. 31, 1982, Alta. Prov. Ct., Horrocks Prov. Ct. J.)
   A motorist who is placed in a police cruiser which he cannot leave without the assistance of the police, and who was then transported to a police station for the purposes of complying with a breathalyzer demand is detained within the maening of section 10.

   R. v. Allan (Sept. 14, 1982, Alta. Prov. Ct., Stevenson Prov. Ct. J.)

   R. v. Engen (Sept. 29, 1982) Alta. Prov. Ct., Clozza Prov. Ct. J.)
   The word "detention" in a section connotes some form of compulsory restraint. In this case an accused having been given a breathalyzer demand, was placed in a police cruiser, driven some 30 km., searched en route and kept at a police station until the tests were completed. In those circumstances he was under some form of compulsory restraint and was temporarily confined.

   R. v. Stoyles (October 25, 1982, Nfld. Prov. Ct., Scott Prov. Ct. J.)
   The detention contemplated by s.10 is some sort of compulsory restraint.

   R. v. Anderson (January 26, 1983) 9 W.C.B. 163 (Ont.Co.Ct., Soubliere Co. Ct. J.)
   No detention within the meaning of section 10, - detention requiring that the accused was being held against his will.

R. v. *Wicklum* (Jan. 19, 1983) 9 W.C.B. 178 (B.C. Co.Ct. Gansner, Co. Ct. J.)
No arrest or detention per s.9.

R. v. *Eng* (Dec.20, 1982) 9 W.C.B. 200 (B.C. Prov. Ct., Davies Prov. Co. J.)
It could be said that every instance in which a person complied with a breathalyzer demand did not amount to a "detention" within the meaning of the Charter - here, the accused was detained once he was placed in a police wagon for conveyance to the police station.

R. v. *Sifert* (Oct. 28, 1982) 9 W.C.B. 205 (Sask. Prov. Ct., King Prov. Ct. J.)
No detention per s. 10 of the Charter.

R. v. *MacDonald* (Nov. 30, 1982) 9 W.C.B. 207 (Alta. Prov. Ct., Maher, Prov. Ct. J.)
No arrest or detention per Charter.

Contra: R. v. *Therens* (July 30, 1892) 8 W.C.B. 380 (Sask. Prov. Ct., Muir Prov. Ct. J.)
This case is the only case that suggests that "detention" in s.10 should not necessarily be interpreted in the same way as in s.2(c) of the *Bill of Rights*.

3. Legislature of Ontario *Debates* 1981
Bill 178. Ministerial Statement - 3963
First Reading - 3977
Second Reading - 4440, 4511, 4531
Third Reading - 4857, 4903
Royal Assent - 4932.

4. See Maxwell on *Interpretation of Statutes*. 12th ed. by P. St. J. Langan. London: Sweet & Maxwell, 1969, at p. 147-48.

Office of the
Minister

Ministry of
Transportation and
Communications

Ferguson Block
Queen's Park
Toronto, Ontario
416/965-2101

APPENDIX III(a)

July 22, 1983.

Sidney B. Linden, Esq., Q.C.
Public Complaints Commissioner
157 Bloor St. West
Toronto, Ontario
M5S 1P7

Dear Mr. Linden:

As you are aware, The Honourable Roy McMurtry, Q.C. forwarded to me a copy of your letter of June 2, 1983 regarding the Metropolitan Toronto Police Force Complaints Project Act, 1981, complaint of Mr. A. File No. 987.

It is unfortunate that investigation of this complaint was apparently substantially complicated by a lack of clarity in subsection 129(3) of the Highway Traffic Act. Prior to Bill 52 which was given First Reading on May 7, 1981, and which was withdrawn in favour of Bill 150 which was given Royal Assent on November 19, 1981, there was no specific offence for driving on the lefthand shoulder of expressways and the law with regard to passing on the righthand shoulders of highways generally had some deficiencies. This made it very frustrating for the police in dealing with such unsafe practices, particularly on highways such as 401 in the Metropolitan area.

Subsections 2 and 3 of section 129 were enacted in an effort to correct this situation. Clause (3)(a) preserved an existing exception with regard to passing on the right and it was recognized that it was desirable to articulate specific exemptions with regard to vehicles which should have freedom to use these shoulders in situations where the roadway is jammed by vehicles because of a collision or stalled vehicles.

The most obvious candidates for exemption were ambulances, fire department vehicles and police department vehicles. It was felt to be desirable to give the extended meanings to ambulance and fire department vehicles which are set forth in section 43 of the Act. It was felt that certain vehicles of the Ministry of Transportation and Communications should be exempted, but whereas in section 135a it was necessary to exempt all Ministry vehicles from the prohibition against backing up on shoulders, this being a manoeuver commonly required by our highway maintenance vehicles, the exemption with regard to passing stopped vehicles on the shoulders was limited to "Ministry emergency vehicles" such as the emergency patrol vehicles which we operate in the Metropolitan Toronto area on Highways 401, 404, 409 and 427 to render assistance to motorists in difficulty, which frequently includes assisting the OPP as required.

The intention of clause (3)(c) is that the exemption be given to police department vehicles and Ministry emergency vehicles. We were not aware that the police department operated a part of their fleet as a separate category of vehicles which they would consider to be emergency vehicles, and we had no intention of granting the exemption to only a sub-category of police department vehicles. The intention was probably more clearly set forth in the explanatory note to section 17 of Bill 150 which stated that "an exemption is provided for ambulances, fire department, police department and Ministry emergency vehicles and tow trucks responding to a police call".

I regret that the drafting of this provision has caused this confusion and we shall give consideration to inserting "vehicle" after the words "police department" in clause (c).

I have no comments to offer with regard to the specific action of the police in this matter but I should mention that there is currently considerable concern over the increasing number of fatal motorcycle accidents at a time when all other fatal motor vehicle accidents are on the decline. My Ministry recently sponsored a 1-day seminar on motorcycle safety in which a wide variety of interested and knowledgeable parties participated. In analyzing our statistical information for the purposes of this seminar we were startled to find that it appears that some 38% of the drivers of motorcycles who were killed in 1982 did not have licences to operate motorcycles. One of the chief recommendations which came out of this seminar was that the police increase their enforcement of the requirement that drivers of motorcycles be properly licensed. In terms of public safety we would obviously prefer that unlicensed motorcyclists be identified before they become involved in accidents rather than afterwards. Unfortunately, it is inherently difficult to fulfil this objective without causing inconvenience to motorcyclists who do in fact hold the proper authority.

I am sure that we all hope that the police will succeed in playing their difficult role with respect to these inherently dangerous vehicles while avoiding the impression that they are "harassing" one segment of the driver population.

With kindest regards, I remain,

Yours sincerely,

James Snow,
Minister.

cc: The Honourable Roy McMurtry, Q.C.
The Honourable George Taylor, Q.C.

Address all correspondence to the Chief of Police

Metropolitan Toronto Police

JOHN W. ACKROYD *Chief of Police*

590 Jarvis Street
Toronto Ontario
Canada M4Y 2J5

(416) 967-2222

APPENDIX IV(a)

Please reply attention of
Executive Services.

File No. 19355

October 12, 1983

Mr. Sidney B. Linden, Q.C.,
Public Complaints Commissioner,
157 Bloor Street West,
TORONTO, Ontario.
M5S 1P7

Dear Sir:

Re: Morrish Road Incident

I have been asked by Chief John Ackroyd to acknowledge and reply to your letter of October 4, relative to our response to your recommendations.

1. On September 2, 1983, Chief Ackroyd made a news release and later in the day, held a press conference, apologizing for the conduct of some members of our Force. The press conference was attended by representatives from the press, television and radio.

2. On September 12, 1983, I forwarded letters of apology to all but one of the persons who registered complaints. The lone exception is a person who has commenced an action against Chief Ackroyd and the Force. Metro Legal Department attempted to settle the matter, but the plaintiff declined. The matter will be going to trial and we were, therefore, requested by Metro Legal, not to make an apology in this case.

3. Five persons instituted claims against the Force, in Small Claims Court. All five have been settled through Metro Legal Department and did not go to trial. Refer to the previous response, relative to an action, still pending, in the County Court.

..........2

4. A reminder has been published in Routine Orders, relative to the existing regulations pertaining to the wearing of police caps and badges, as well as identification numbers.

5. Our Operational Planning Unit is reviewing our procedure on "Disorderly Crowds". As I read through your file on Morrish Road, I made notes of areas which could be improved or addendums made in our current procedure. A memo setting out 11 points was forwarded by me, to Operational Planning, included in which was a recommendation for additional supervisors.

6. Two of my recommendations pertained to more mitre sets being made available at such incidents, as well as more upward, downward and lateral communication at the scene.

7. Another of my recommendations was that upon arrival at the scene, all personnel, as well as being instructed on the basic strategy, also be advised not to act unless directed by a supervisor.

8. Another recommendation was that each supervisor appoint a constable to keep accurate and complete notes of the event.

9. All officers present at Morrish Road attended a refresher course on crowd control and baton training, at our Police College.

Police officers attend our Police College every three years on a 13 day in-service course. Other courses are held touching on such subjects as dealing with juvenile offenders, drug investigation courses, plainclothes duties, investigative techniques, instructional techniques, etc. In the last few years, we have instituted courses which all personnel were required to attend, such as policing a multi-cultural society, crisis intervention, use of the Tonfa baton, and currently, a course on C.P.R. (cardio pulmonary rescusitation). While it is necessary to furnish all personnel with not only basic, in-service and special training courses, a balance must be struck with operational requirements, particularly in a period of budget restraints. It is, therefore, not practical at the present time, to increase in-service training.

Yours truly,

J. Noble

J. Noble,
Deputy Chief of Police,
Executive Services.

JN:mc

The following letter was in response to a recommendation made by the P.C.C. following a review of a complaint involving a citizen who was arrested for "breach of the peace". The police force, after seeking the advice of the Attorney General's office, agreed with the Commissioner's recommendation and implemented the routine order that is referred to in the letter.

Address all correspondence to the Chief of Police

Metropolitan Toronto Police

JOHN W. ACKROYD, *Chief of Police*

590 Jarvis Street
Toronto, Ontario
Canada. M4Y 2J5

(416) 967-2222

Please reply attention of
Executive Services

File No. ....

APPENDIX IV(b)

November 22, 1983

Mr. S. Linden, Q.C.,
Public Complaints Commissioner,
157 Bloor St. West,
Toronto, Ontario.
M5S 1P7

Dear Mr. Linden:

Further to our recent conversation, I am enclosing a copy of Routine Order No. 699 of May 25, 1983, pertaining to "Breach of the Peace".

Yours very truly,

J. Noble,
Deputy Chief of Police,
Complaint Review Officer.

JN:wm
Encl.

METROPOLITAN TORONTO POLICE

HEADQUARTERS

ROUTINE ORDERS

by

CHIEF OF POLICE JOHN W. ACKROYD

590 Jarvis Street
Toronto, Ontario
M4Y 2J5

BREACH OF THE PEACE

The Metropolitan Toronto Police Force is in receipt of advice from the Attorney General's office regarding Section 31 of the Criminal Code which describes a peace officer's power to arrest for "breach of the peace."

Members are hereby reminded that Section 31(1) of the Criminal Code defines the police officer's power to arrest for breach of the peace, but does not create an offence for which a person can be convicted.

It provides that:

> "Every peace officer who witnesses a breach of the peace and everyone who lawfully assists him is justified in arresting any person whom he finds committing the breach of the peace or who, on reasonable and probable grounds, he believes is about to join in or renew the breach of the peace."

The definition which has been adopted by the Supreme Court of Canada is that quoted in Frey v. Fedoruk (1950) 97 C.C.C. 1 which states:

> "A breach of the peace takes place when either an actual assault is committed or an individual or public alarm and excitement is caused. Mere annoyance or insult to an individual, stopping short of actual personal violence is not a breach of the peace."

The cases, however, are not completely clear as to the circumstances in which it is appropriate to arrest for breach of the peace as some go further than others. Based on the recent decision of Regina v. Lefevre (1982) 67 C.C.C. (2d) 446 and R. v. Atkinson (1981) 58 C.C.C. (2d) 215, it would now seem to be clear in the eyes of the law that a simple noisy party or trespass without violence or alarm or threat of violence or alarm would not fall within the scope of Section 31.

As such, the Attorney General's office has advised us that a peace officer, where possible, should arrest a person under Section 450 of the Criminal Code for a specific offence rather than rely on the rather uncertain interpretation of Section 31. Section 450(1)(a) also authorized a peace officer to arrest a person without warrant if, on reasonable and probably grounds, he believes that a person is about to commit an indictable offence.

It is now clear that in the future, violence whether actual or apprehended, will have to be an essential element before one can arrest a person for "breach of the peace."

Members are, therefore, advised that in most circumstances Section 450(1) of the Criminal Code will apply and unless the conduct satisfies the above definition of "breach of the peace," the police officer should arrest under Section 450(1).

APPENDIX V(a)

contact
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the Public Complaints Commissioner

A civilian service set up
to resolve disputes between
You and Your Police.

PUBLIC COMPLAINTS COMMISSIONER

Sidney B. Linden, Q.C.
Public Complaints
Commissioner

During the course of this pilot project I am hopeful that I will be able to count on the support of the citizens of Metropolitan Toronto, the Metropolitan Police Force and the Metropolitan Toronto Police Association.

I am confident that the expressions of goodwill received since my appointment as Public Complaints Commissioner will continue to provide a foundation for an atmosphere of co-operation and mutual respect that will ensure the success of this unique experiment.

Sincerely,

SIDNEY B. LINDEN, Q.C.
PUBLIC COMPLAINTS COMMISSIONER

Mr. Linden is a native of Toronto who, until his appointment as Public Complaints Commissioner, was a prominent member of the criminal bar and a well-known labour arbitrator. He was General Counsel to the Canadian Civil Liberties Association and served on its Board of Directors. He was Vice-President of the Criminal Lawyers Association and also active on the Legal Aid Committee of the Law Society of Upper Canada.

Questions & Answers about police complaints in Metropolitan Toronto

New procedures are now in place for handling complaints from members of the public against police officers on the Metropolitan Toronto Police Force. This new system is a marked departure from the previous one where the police alone were responsible for these matters.

A citizen can now lodge a grievance directly with an independent civilian who is not connected with the police in any way. This person, the Public Complaints Commissioner, has the power to do his own investigation, completely separate from that conducted by the police. He is responsible for making sure that all complaints concerning allegations of misconduct are dealt with promptly and fairly.

As well, he may order a public hearing by the newly-established Police Complaints Board. The members of this Board are also independent civilians.

The Public Complaints Commissioner is in a position to identify those police practices or procedures which may be particularly productive of citizen complaints and he can recommend that appropriate changes are made to remedy these situations.

To assist the public, the Office of the Public Complaints Commissioner has assembled answers to the following common questions often put to it about the Metropolitan Police Force Complaints Project Act, 1981.

Question

Where do I make a complaint about the conduct of a police officer on the Metropolitan Toronto Police Force?

Answer

You may make your complaint at any one of the following locations:

a) the Office of the Public Complaints Commissioner, 157 Bloor Street West, Toronto, Ontario M5S 1P7, telephone: 963-1141.
b) the Metropolitan Toronto Police Public Complaints Investigation Bureau, 3080 Yonge Street, Toronto, Ontario M4N 3N1, telephone: 967-2367.
c) any police station in Metropolitan Toronto (telephone 967-2222 for the station closest to you).

Question

When does the Public Complaints Commissioner become involved with my complaint?

Answer

IMMEDIATELY. No matter where you make your complaint, a copy is sent to the Office of the Public Complaints Commissioner. He monitors the investigation from the start.

Question

Who will investigate my complaint?

Answer

Initially, your complaint will be investigated by a police officer from the Public Complaints Investigation Bureau of the Metropolitan Toronto Police Force. The Bureau is a separate unit within the Force.

If it is possible for your complaint to be resolved informally, the officer in charge of the Bureau may attempt to do so, but only if you and the police officer involved agree.

Question

Can the Office of the Public Complaints Commissioner investigate my complaint?

Answer

YES. The Public Complaints Commissioner can conduct his own civilian investigation 30 days after you make your complaint. In some situations, the Public Complaints Commissioner can start his own investigation immediately.

Question

When do I find out about the status of my complaint?

Answer

In general, within 30 days of making a complaint, you will receive an interim report on the investigation done up to that time. You will also receive further reports during the course of the investigation and a final report when it is completed. All of these reports are in writing.

Question

What happens after the final investigation report is made?

Answer

The Chief of Police will review the matter, decide what action, if any, is to be taken, and give written notice of his decision to you, the Public Complaints Commissioner, and the police officer concerned.

Question

What if I am not satisfied with the decision made by the Chief of Police?

Answer

You may ask the Public Complaints Commissioner to conduct a review. He may order that a public hearing be held by the Police Complaints Board, if he believes that it is in the public interest to hold such a hearing.

Question

What is the Police Complaints Board?

Answer

The Police Complaints Board is a group of civilians specifically appointed to conduct hearings into citizens' complaints about the conduct of police officers on the Metropolitan Toronto Police Force. The Public Complaints Commissioner is the Chairman of the Board and he assigns members of the Board to conduct these hearings.

Question

Do I have the right to attend the Police Complaints Board hearing and take part in it?

Answer

YES. You will be notified in writing of the date of the hearing. A lawyer will present the case to the Board but you may choose to be represented by your own lawyer or an agent. You will also be given a chance, before the hearing, to examine any written evidence or any report that will be given in evidence at the hearing.

Question

If the Police Complaints Board finds that the police officer is guilty of misconduct, what penalties can it impose?

Answer

The penalties that can be imposed by the Police Complaints Board depend on the nature of the misconduct. The maximum penalty that the Board can impose is dismissal of the police officer from the Metropolitan Toronto Police Force.

Question

What if I want to complain about a police officer who does not belong to the Metropolitan Toronto Police Force?

Answer

Consult a member of the police force concerned, the local board of commissioners of police or the local municipal council. You may also contact the Ontario Police Commission, 25 Grosvenor Street, Toronto, Ontario M4A 2G9, telephone: 965-6071.

Question

What if I want to charge a police officer with a criminal offence or sue the police officer in the civil courts?

Answer

Your right to take either of these alternatives is not affected by this new complaints procedure.

You may charge a police officer with a criminal offence by attending at the office of a Justice of the Peace. For the office nearest you, telephone 965-7541.

If you want to sue a police officer, you should contact a lawyer.

All civil suits and some criminal charges must be started within six months of the date the incident occurred.

Question

Where can I get more information about the Metropolitan Police Force Complaints Project Act?

Answer

You can obtain a copy of the Act from the Ontario Government Bookstore, 880 Bay Street, Toronto, Ontario, telephone: 965-2054.

As well, you can telephone the Office of the Public Complaints Commissioner at 963-1141.

If you make a complaint, you will be given a document that sets out the procedures that are followed and your rights under the Act.

The Metropolitan Police Force Complaints Project Act, 1981, was proclaimed December 21, 1981. The project is funded by the Ontario Ministry of the Attorney General and the Municipality of Metropolitan Toronto.

The Office of the
Public Complaints Commissioner

157 Bloor Street West, Toronto, Ontario M5S 1P7
Telephone: 963-1141

own lawyer. The maximum penalty the Board can impose is dismissal of the police officer from the force.

An appeal of the Board's decision can be made to the Divisional Court.

(Persons wanting more information about how to lodge a complaint can contact the Office of the Public Complaints Commissioner at 963-1141 or contact the Law Society's Dial-a-Law program at 947-3333.)

PC 028 (2/84)

Office of the Public Complaints
Commissioner, 157 Bloor Street
West, Toronto, Ontario, M5S 1P7

963-1141

HOW TO FILE A POLICE COMPLAINT

A member of the public with a complaint against a Metropolitan Toronto police officer may make the complaint at any police station within Metro, to the Public Complaints Investigation Bureau of the police, or to a civilian agency, the Office of the Public Complaints Commissioner. The civilian Commissioner receives a copy of every complaint no matter where it is made.

The complaint will be investigated initially by the Police Force's Investigation Bureau. The officer from the Bureau may attempt to resolve the complaint informally, but only if the complainant and the subject officer agree in writing to the resolution. Informal resolutions are reviewed by the Public Complaints Commissioner.

If no informal resolution is achieved, the Bureau will further investigate the complaint and must provide written reports every thirty days until the investigation is completed. These reports are sent to the complainant, the Chief of Police, the subject officer and the Public Complaints Commissioner.

In some circumstances the Commissioner may decide to conduct his own investigation.

Complainants may contact the Commissioner's office if they are dissatisfied at any time with the way a complaint is being handled.

At the conclusion of the investigation the Chief of Police will review the reports and may order further investigation; decide no further action is warranted; cause a criminal charge to be laid against the police officer and refer the matter to the Crown attorney for prosecution; refer the matter to the civilian Police Complaints Board for a hearing; cause disciplinary proceedings to be taken against the police officer under the Police Act; or Counsel or caution the police officer regarding his conduct.

Complainants who are not satisfied with the decision of the Chief of Police may request the Public Complaints Commissioner to review the matter further.

The Public Complaints Commissioner and his staff have broad powers to investigate. They can demand documents, subpoena individuals for questioning, and apply to a Justice of the Peace for a search warrant.

After his review, the Commissioner can order a public hearing before the independent, civilian Police Complaints Board if he feels that would be in the public interest.

One-third of the Board's members have had training in law and have been recommended for appointment by the Attorney General; one-third on the recommendation of Metro council, and one-third on the joint recommendation of the Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association. One of each group of appointees sits on each major hearing; whereas the legally-trained member sits alone on minor hearings.

The complainant will be notified of the hearing date. Counsel for the Board will present the case to the Board, but the complainant may choose to be represented by his or her

APPENDIX V(c)

Help us make it work.

If you have a complaint against the Metropolitan Toronto Police Force a new, independent service is available to help you. This service, headed by a civilian commissioner, is designed to resolve disputes between the police and the public they serve and protect.

Under the new law, passed by the Ontario Legislature, you can:

- Lodge a complaint directly with the office of the Public Complaints Commissioner.
- Get a written interim report on the status of the complaint if it is not resolved within thirty days.
- Get a final written report at the conclusion of the investigation.

The commissioner may direct a completely independent investigation into your case. If the commissioner considers it in the public interest, he may order a full public hearing before a civilian review board.

R. Roy McMurtry
Attorney General

Paul Godfrey
Metropolitan Toronto
Chairman

The Commissioner

He's Sidney Linden, Q.C., former general counsel to the Canadian Civil Liberties Association and Vice-President of the Criminal Lawyers Association and a citizen with a strong social conscience. He is the newly appointed independent Public Complaints Commissioner and his responsibility is to review all complaints against the police.

"I have the highest regard for him as a civil libertarian and for his appointment. He is a most credible person and an excellent lawyer." – Dr. Dan Hill, Special Adviser to the Mayor's Committee on Race and Community Relations, Toronto.

"I for one, have great confidence in Mr. Linden." - Alan Borovoy, Canadian Civil Liberties Association.

"...His reputation is excellent and completely acceptable." - Robert Nixon, Liberal M.P.P. and former Opposition Leader.

"The Council feels that Mr. Linden is a very capable criminal lawyer and will discharge his responsibilities with great awareness and with fair dealing." - Multicultural Council in Greater Toronto.

The system is set up to work for you. You have a personal contact. The essential ingredient is you. Help us make it work. For information please call 963-1141.

SANJH SAVERA 12.3.82. Page 8.

APPENDIX V(d)

ਇਸਨੂੰ ਨੇਪਰੇ ਚਾੜਨ ਵਿਚ ਸਾਡੀ ਮੱਦਦ ਕਰੋ

[illegible]

ਉਨਟਾਰੀਓ ਪ੍ਰਾਂਤ ਦੀ ਵਿਧਾਨ ਸਭਾ ਦੁਆਰਾ ਜੋ ਨਵਾਂ ਕਾਨੂੰਨ ਪਾਸ ਕੀਤਾ ਗਿਆ ਹੈ ਤੁਸੀਂ ਕਰ ਸਕਦੇ ਹੋ ਜਿਵੇਂ–

ਉਨਟਾਰੀਓ ਪ੍ਰਾਂਤ ਦੀ ਵਿਧਾਨ ਸਭਾ ਦੁਆਰਾ ਜੋ ਨਵਾਂ ਕਾਨੂੰਨ ਬਣਾਇਆ ਗਿਆ ਹੈ ਉਸ ਅਨੁਸਾਰ ਤੁਸੀਂ [illegible]

ਜੇ ਤੁਹਾਡੀ ਸ਼ਿਕਾਇਤ 30 ਦਿਨਾਂ ਦੇ ਅੰਦਰ ਅੰਦਰ [illegible]

[illegible]

[illegible]

ਪਹਿਰੇਦਾਰ

[illegible]

[illegible] 963–1161

[illegible]

R. Roy McMurtry
Solicitor General

Paul Godfrey
Metropolitan Toronto
Chairman

APPENDIX V(e)

Did you know... the Office of the Public Complaints Commissioner handles complaints about the Metropolitan Toronto Police?

If you have a complaint about a Police officer on the Metropolitan Toronto Police Force, you can now register that complaint directly with an independent, civilian agency. That agency is the Office of the Public Complaints Commissioner.

The Commission was designed to ensure that disputes between the citizens of Metropolitan Toronto and their police force receive prompt and thorough investigation. The agency is not connected in any way with the police force, and you can be confident your complaint will be dealt with in a fair and impartial manner.

If you're not satisfied with the resolution of your dispute, and the Commissioner feels it's in the public interest, he can order a public hearing of your complaint before the civilian Police Complaints Board. Members of the Board include respected judges, lawyers, religious and labour leaders, teachers and businessmen–people with a variety of cultural and racial backgrounds.

To arrange for a meeting with an investigator, or to find out more about the Office of the Public Complaints Commissioner, call 963-1141, or visit our office at 157 Bloor Street West (corner of Avenue Road and Bloor).

Help us make the system work for you.

Sidney Linden, Commissioner

Ontario
Roy McMurtry, Attorney General
William Davis, Premier

APPENDIX V(f)

Sapevi che... l'Ufficio del Public Complaints Commissioner tratta reclami a proposito della Metropolitan Toronto Police?

Se hai un motivo di reclamo su un ufficiale di Polizia in forza a Metro Toronto Police Force, ora puoi denunciare direttamente il problema presso una agenzia civile ed indipendente. Quell'agenzia e' l'Ufficio del Public Complaints Commissioner.

La Commissione e' stata istituita per assicurare che le dispute tra i cittadini di Metropolitan Toronto e la loro forza di polizia ricevano una equa e completa indagine. L'agenzia non e' in alcun modo collegata con la polizia, e tu puoi essere certo che la tua lamentela sara' trattata in modo corretto ed imparziale.

Se non sei soddisfatto con la conclusione della tua disputa, ed il Commissioner ritiene sia nell'interesse pubblico, egli può indire un'udienza pubblica del tuo reclamo prima del Police Complaints Board civile. I membri del Board comprendono giudici stimati, avvocati, religiosi e leaders sindacali, insegnanti e uomini d'affari, con diversi backgrounds culturali e razziali.

Per contattare un investigatore, o per saperne di più a proposito dell'Ufficio del Public Complaints Commissioner, telefona al 963-1141 o visita il nostro ufficio al 157 Bloor Street West (angolo di Avenue Road e Bloor).

Aiutaci a far funzionare il sistema per te.

Sidney Linden, Commissioner

Ontario

Roy McMurtry Attorney General
William Davis Premier

Bathurst Heights Secondary School

APPENDIX V(g)

640 Lawrence Avenue West,
Toronto, Ontario M6A 1B1
789-0551

February 16, 1984

Alice Murray,
Manager, Office and Public Relations,
157 Bloor Street West,
Toronto, Ontario M5S 1P7

Dear Ms. Murray,

We wish to take this opportunity to express the appreciation of Mr. Golden, our students and ourselves to you and your very able department for the excellent presentation given on February 14th and 15th.

Our students are now armed with knowledge of the procedure to be used should a problem occur. Of even greater importance, is the reassurance gleaned from the knowledge that there is a department in existence that will give satisfaction for injustices suffered at the hands of the police.

We do hope that we will have a further opportunity to meet in the near future.

Thank you.

Esther Halpern

Mr. J. McKay
Mrs. E. Halpern
Business Department

THE BOARD OF EDUCATION FOR THE CITY OF NORTH YORK

YORK COMMUNITY SERVICES
1651 KEELE STREET, TORONTO M6M 3W2 · 653-5400

APPENDIX V(h)

EXECUTIVE DIRECTOR, JOAN MILLING
PRESIDENT, BARBARA JAFELICE

December 6, 1983

Ms. Judith Keene
Executive Assistant
The Office of the
Public Complaints Commissioner
157 Bloor Street West
Toronto, Ontario
M5S 1P7

Dear Judith:

I am writing to thank you and Steve Ginsberg for the excellent presentation (November 23, 1983) to our staff. We have referred clients to the Public Complaints Commission and so found it very helpful to have the role of the Commissioner's office and the process clarified. I'm sure this will help us in terms of determining future referrals.

I hope this most worthwhile venture does go beyond its "pilot" phase and wish you luck in your outreach efforts.

Sincerely,

Colin Hughes
Team Coordinator

CH:ac

LEGAL, MEDICAL, SOCIAL SERVICES